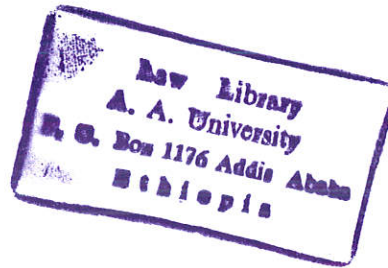


THE ROLE OF ANTI-CORRUPTION INITIATIVES TO THE
REALIZATION OF THE RIGHT TO DEVELOPMENT: WITH
PARTICULAR REFERENCE TO ETHIOPIA

By: Destaw Andargie Yigzaw



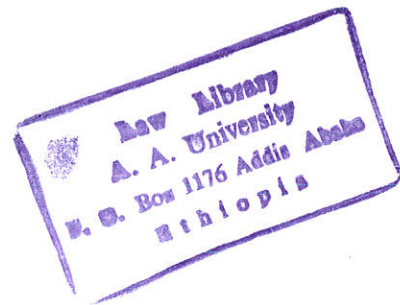
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Addis Ababa, Ethiopia

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**A Thesis Submitted to the School of Graduate Studies of Addis
Ababa University in Partial Fulfillment of the Requirements for
the Degree of Master of Laws (LLM Degree) in Private Law**

June 23, 2005

Addis Ababa

Addis Ababa University
School of Graduate Studies

**The Role of Anti-Corruption Initiatives to the Realization of
the Right to Development: with Particular Reference to
Ethiopia**

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ACRONYMS

AfCHPR-	African Charter on Human and Peoples' Rights
EU-	European Union
FDRE-	Federal Democratic Republic of Ethiopia
FEAC-	Federal Ethics and Anticorruption commission
GCA-	Global Coalition for Africa
ICCPR-	International Convention on Civil and Political Rights
ICESCR-	International Convention on Economic, Social and Cultural Rights
IMF-	International Monetary Fund
NEPAD-	New Partnership for Africa's Development
NIEC-	New International Economic Order
OECD-	Organization for Economic Co-operation and Development
OHCHR-	The Office of the High Commissioner for Human Rights
TI-	Transparency International
UDHR-	Universal Declaration of Human Rights
UN-NADAF-	United Nations New Agenda for the Development of Africa

ABSTRACT

The right to development (RTD), which is a comprehensive concept, embracing virtually all human rights, and constitutes in economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized, has been recognized as an inalienable human right. Conversely, corruption runs directly counter to the economic, social, cultural and political development endeavors of a nation. It particularly worsens the already harsh socio-economic conditions in poor countries, such as Ethiopia. The real enigma is that, whereas corruption is ruinous to overall development, underdevelopment is in part responsible for the perpetuation of corruption. Very clearly, corruption and underdevelopment reinforce each other for each other's subsistence. Indisputably, therefore, the realization of the RTD requires breaking the vicious circle, which in turn presupposes the elimination of corruption.

Corruption and underdevelopment being major problems of third world countries such as Ethiopia, the paper is aimed at exploring and depicting the complex dilemma of relationship between the two monumental problems, and conversely, the role anti corruption movements can play in the realization of the right to development. It tries to scrutinize the conceptual and practical issues surrounding the problem.

This paper embraces four chapters. The opening chapter is meant to introduce the overall objective of the research. The second chapter takes up the issue of corruption and grapples to clarify the nature, the root causes and debilitating consequences of corruption. It also attempts to figure the problem in the Ethiopian context. The theoretical underpinnings of the right to development as a human right, the particular significance of such a right to underdeveloped countries, such as Ethiopia, and the status of this right in the national and international legal frameworks will also be examined under the third chapter. Chapter four grapples with the profound correlation between corruption and underdevelopment. It also tries to identify possible ways of integrating anti corruption initiatives into the promotion and implementation of human rights situations in general and the right to development in particular. Finally, some concluding remarks, which essentially suggest mechanisms of streamlining anticorruption efforts to redress the situation, wind up the paper.

CHAPTER ONE: INTRODUCTION

1.1. Statement of the Problem

We very often hear that corruption is becoming a formidable challenge to development, the respect of human rights and political stability of nations, and particularly so in underdeveloped ones, like ours. Needless to say, corruption and its effects can be seen from a multitude of viewpoints. Indeed, it is a matter of everyday experience that citizens' economic, social, political and cultural rights are infringed by both petty as well as grand corruption. Access to basic social services can, for instance, be blocked by petty corruption whereby ordinary citizens including those living in economic hardship will have to routinely bribe personnel starting from the gate up the tier in hospitals, schools, and other public services.

Whereas in the case of underdeveloped countries, their sparse financial resources need to be used in a manner that yields optimal results, it is very uncommon to hear public officials misappropriating public wealth, including relief foods. Because of this some people argue that the right to a corruption free society is inherently a basic human right in the absence of which the right to life, dignity, equality and other important human rights and values lose their meaning, let alone be realized.

Apart from such direct effects, a country's reputation for corruption has other adverse consequences. While it is clear that if development is to succeed, poor countries have to be able to attract a flow of capital, an economy undermined by corruption has the effect of discouraging potential foreign investors. Corruption also affects foreign aids, hence characterized as an 'aid fatigue'. Donors, it is shown and heard, are increasingly being reluctant to offer financial aid to those countries that manage their own resources poorly. Positions are being held that financial aid institutions should go as far as suspending their cooperation in blatant cases of corruption and bad management, just as they do in cases of serious violation of human rights.

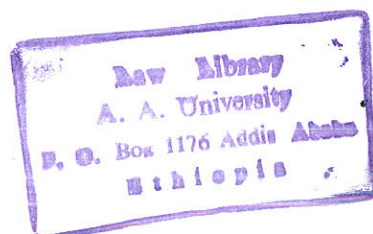
On the other hand, the Declaration on the Right to Development, which was adopted by the UN in 1986 clearly recognizes that the right to development as a human right and underscores that the right to development is a right to a particular process of development

in which all human rights and fundamental freedoms can be fully realized, which means that the right to development combines all the rights enshrined in both of the previously adopted covenants, including the right to have equal opportunity of access to the resources for development and receive a fair distribution of the benefits of development. Finally, The right confers an unequivocal obligation on duty-holders, states at the national and international levels to endeavor towards the realization of the right. States have the responsibility to help realize the process of development by initiating appropriate development policies. Other states and international agencies have the obligation to cooperate with the nation states to facilitate the realization of the process of development.

It is also argued that the right to development originates and flows from the right of the people to exercise permanent sovereignty over their natural resources and wealth, that is, their right to economic self-determination, recognized in international human rights covenants. A state that transfers or allows to be transferred in a corrupt manner the ownership of national wealth to select power-holders who happen to be influential in a society at a particular point of time is thus in violation of the right of the people to economic self-determination. This violation by the state also results in a situation where people are denied individually and collectively their right to use freely, exploit and dispose of their national wealth in a manner that advances their development.

It has been argued that the struggle to promote human rights and the campaign against corruption share a great deal of common ground. A corrupt government that rejects both transparency and accountability is not likely to respect human rights. Accordingly, the campaign to eliminate corruption and the movement towards the promotion of human rights are inextricably linked and interdependent matters. Clearly, no development process will have any meaning and relevance if corruption as an institutionalized process interferes with people's struggles to realize their right to development.

The root of the dilemma is that as corruption is one of the causes of underdevelopment, underdevelopment is also in part responsible for its subsistence. If a person cannot earn a reasonable living for himself and his family, then he may be tempted into earning it by less honest means. Hence, corruption being both the cause and the consequence of



underdevelopment, it needs adequate intellectual treatment. No doubt that a concerted and multifaceted effort is required to combat this challenge, and this requires clarifying the conceptual and practical issues involved. If the fight against corruption is to be effectively put into service to the realization of development rights, the link between the two needs to be properly scrutinized. With the view to curbing the problem of corruption, various initiatives are being launched at both the national and international stages. Yet, it is a living paradox that corruption is still mushrooming. Hence, the need for a thorough examination.

Corruption can be perpetrated both in the public sector and the private sector. Not only public officials but also the private sector is often deeply implicated in corrupting politicians, and officials. Thus, the effects of corruption wave through all the strata in a society. Yet, public sector corruption is considered to be more ruinous to economic, social, and political development of a nation. Accordingly, the scope of treatment of this paper is confined to public sector corruption.

1. 2.Objective Of The Study

Main stream anticorruption movements are increasingly being put on top in the good governance agenda of many states of the world, including Ethiopia. Yet, studies show that corruption is still escalating in many countries, and particularly so in underdeveloped ones such as Ethiopia. For example, according to Transparency International's Corruption Perception Index, corruption in Ethiopia has worsened from 2.5 in 2003 to 2.3 in 2004. On the other hand, despite some improvements in the protection of political right and civil liberties, economic, social, and the integrating right to development have not yet won satisfactory attention. We are still living in harsh realities of underdevelopment. Besides, the fact that corruption is rampant in countries that are notorious in human rights violations suggests that corruption has some degree of correlation to poor human rights situations. Conversely, therefore, combating corruption can enhance the realization human rights. True, corruption affects all kinds human rights; the scope of study of this paper is, however, mainly limited to exploring the link between corruption and the right to development, and thus the role anti corruption initiatives can play in the realization of the right to development. Generally, the paper seeks to:

- Identify the causes and assess the effects of corruption;
- Examine the theoretical underpinnings of the right to development, and sketch a contrast between the right and the reality;
- Explore the complex dilemma of relationship between corruption and human rights in general, and the right to development in particular;
- Assess whether anti corruption works have any potential to play to the realization of the right to development, with particular reference to the case of Ethiopia;
- Examine the level of corruption, and significance and limitations of anticorruption initiatives in Ethiopia; and
- Outline the conditions and possibilities of pressing anti corruption initiatives into service towards the realization of the right to development in Ethiopia.

1.3. Research Methodology

Corruption being a problem with wide-ranging manifestations on every aspect of human development, it needs scrutiny from an equally diverse perspectives. The study is, therefore, based on various sources, both primary and secondary. Pertinent domestic legislation, international conventions, treaties and declarations have been analyzed. Findings from the analysis of books, articles, interviews, and other related sources have been discussed and analyzed. With a view to elucidating the correlation between underdevelopment and corruption, the paper discusses about the intensity of underdevelopment in Ethiopia, the prevalence of corruption, and the significance and limitations of anticorruption works in Ethiopia. In short, as resources permit, as many methods as are thought of would be of help to the research thesis have been pursued. In general, despite many limitations, every effort possible has been exerted to turn the paper to its present form.

With all its imperfections, it is hoped, this paper will offer a glimpse of insight on the interplay between corruption and underdevelopment, and hence on the need towards integrating anti corruption initiatives with human right issues, and particularly with the right to development

CHAPTER 2: THE NATURE OF CORRUPTION

2.1. Corruption: Theoretical Overview

Corruption is a global phenomenon that is experienced in all societies and perhaps existed at all times. Yet, not long ago had the word “corruption” frequently been used although the problem reflected by its existence is indisputably a very old one. The word didn’t often appear in the headlines of newspapers nor did it constitute a major topic in international meetings. It was only rarely mentioned by economists, sociologists and political scientists.¹ Perusal of recent newspapers, however, evidence that corruption is increasingly posing a major threat on nations, developed and underdeveloped, albeit not at equal degree.

Recent studies show that the problem of corruption is by far widespread and universal than it is conventionally thought of.² In spite of the traditional conception of corruption as an endemic to underdeveloped countries, it is increasingly becoming vivid that the problem is now everywhere. Leaders and ministers of highly industrialized countries have been accused of corruption and consequently, have either resigned or have been forced out of office.³ This should not, however, suggest that the intensity and magnitude of corruption is the same across the glob.

Corruption being an enduring threat of all countries, with its manifold ramifications, it has attracted a lot of attention over the past few years. Various stakeholders are showing concern about the problem. It has also become a clinch of political demagogy and public gossip in many societies, including ours. Yet, the problem still subsists, despite very much political vows. For a better comparison of the rhetoric and the reality, it may be worthwhile to quote at this juncture the late General Aguyi Ironsi of Nigeria, who once declared that:

“The National Military Government will stamp out corruption and dishonesty in the Nigerian Public life with ruthless efficacy and restore integrity and self-respect in public life.”⁴

The reality is, however, that Nigeria is still one of the notoriously corrupt nations on this planet.⁵ In general, everybody from political leaders to ordinary citizens talk about

corruption nowadays. Corruption and how to curb have been a favorite topic of discussion in the mass media, at symposia and conferences, and in the speeches of political leaders.⁶ It is often described as a stubborn obstacle militating against the achievement of developmental goals of a society. No doubt that corruption is ruinous to any economy. The problem affects every developmental aspect of a society; it may also be critical to the very survival of a nation.⁷ Yet, what do we exactly mean by that? How does it occur and affect our development? Why does society out rightly condemn corruption and at the same time maintains it as a way of life?

Although we all have a conventional notion about it, only few scholars have attempted a close examination of what corruption is really about, especially in terms of its origin, conceptual dimensions, and its cures. We now thus, to take up the concept of corruption and grapple to discern what it in fact represents.

2.2 The Essence of Corruption

A fair conceptualization of such an intricate phenomenon as corruption requires identifying the available analytical options to establish its general nature and manifestations, its incursion upon various levels of socio-economic and political life of a country, and above all any discernable trends and cures.

Corruption is manifested in many shapes and forms. It is thus difficult to describe it with sufficient precision. Several definitions appeared in the literature but none seems to be fully satisfactory. The underlying factor for this is that the extent, frequency and magnitude of corruption are a function of wide-ranging variables. As a result, some scholars go as to suggest that rather than approaching corruption exclusively and essentially as a specific undesirable vice of individual or cultural psychology requiring for its correction such measures as severe punishment, the inculcation of honesty and the like, it may be fruitfully studied as a structural phenomenon whose frequency and magnitude highly depends on the socio-economic inequality, poverty, lack of transparency and accountability, absence of efficient, controlling mechanisms, and other similar variables.⁸

Ordinarily, if corruption exists, it would reflect the isolated acts of particular individuals who would try to take advantage of their official position for personal advantages. In this situation, identifying the corruption act might be easier since the victims of such an unwarranted and antisocial behavior would be more likely to identify the perpetrator. Nonetheless, corruption occurs under rather heterogeneous situations and varied contexts that can't adequately be encompassed by any single description. Any definition is, therefore, bound to be incomplete and tentative. Still, for a clearer discourse, we need to consider certain definitions coined to describe corruption.

What exactly does corruption denote then? The term corruption is derived from the Latin verb *rumpere*, which stands for 'to break'.⁹ It thus implies that something is broken. That something might be a moral or social code or a legal rule.¹⁰ Accordingly to Ndubisi, it is not even possible to adequately discuss about corruption without emphasizing on its moral aspects. The reason is because corruption is a value-oriented word.¹¹ According to him, corruption is any act by a public official, which violates the accepted standard of behavior in order to serve private or selfish ends, which may be expressed in terms of social, economic or political benefits.¹²

Some writers tend to consider corruption entirely from social and moral perspectives, and arrive at arguable conclusions. For example, Ndubisi puts that a person who uses his official position to secure jobs for his relatives is not committing corruption so long as that is not considered immoral, but rather as something normal that every loyal member of an extended family is expected to do or even worse, failure to act in that way is condemned, as the case in India.¹³ But the fact that a certain act is socially acceptable doesn't suggest that it is desirable.

Webster's Dictionary defines corruption as: "...impairment of integrity, virtue or moral principle..." In this sense, it refers to the perversion of integrity of state of affairs refers to the perversion of integrity or state of affairs through bribery, favor, or moral depravity.¹⁴ This implies an original state or expectation of individual and societal purity and presupposes the interaction of at least two parties with a view to changing the behavior of functionaries in order to produce dishonest, unfaithful or defiled results.¹⁵ It is true that corruption often involves the injection of improper transactions aimed at diverting the

normal and official course of events and altering judgments and position of trust. But that is just part to the story.

Corruptions may also be defined as an act or omission intended to influence the behavior of another in a direction at variance with the proper normative course, so that a situation is thereby brought about which is of some direct or indirect advantage to the initiator, but which may be dysfunctional or entail negative consequence for the other.¹⁶ This definition, however, fails to encompass situations where both the corrupt and the corruptor may somehow draw benefits, and ignores the fact that the initiation may arise from either the demand side or supply side of a corrupt transaction. Put it otherwise, such a definition doesn't apply to consensual corrupt practices. In the case of nepotism, for instance, the corrupt act involved may not entail any immediate negative consequence on any of the parties. The problem of coining a comprehensive and universally applicable definition to the term corruption is further compounded by the fact that the form, frequency and magnitude of corruption vary depending on cultural, special and temporal contexts.

Whereas corruption may, in legalistic terms, be simply defined as, any act of commission or omission by a public official for securing an illegal or otherwise improper advantage for himself, his family or friends, in a day-to-day life, the problem becomes more complex as it impugns on moral values, and as standards of rectitude vary from society to society.¹⁷ Nepotism is, for example, considered as a serious corruption in many countries, especially in the developed world, but not so in some countries, such as India.¹⁸ "How can a person belonging to a backward caste or community catch up with his better placed competitor unless he is given a lift by a relative or some one belonging to the same caste, it is asked",¹⁹ puts Bhargava to emphasis on the social approval nepotism has in Indian society.

Such a statement further suggests that nepotism is more likely to find a favorable ground in a multi-lingual society, like Ethiopia, where ethnic affinity may tend to encourage favoritism. Likewise, after cautiously and broadly defining the term corruption as: "a general term for the misuse of a public position of trust for private gain...", the Encyclopedia Americana underscores that the specific definition and application of

corruption vary with time, place and culture.²⁰ It further stresses that many actions popularly described as corrupt and in fact constituting a departure from strict ethical standards may not be so defined by law.²¹

Corruption is also defined as: “inducing a public official to act otherwise than his duty requires or to do his duty when otherwise he wouldn’t”.²² A close examination of this definition basically reveals that a public official commits corruption not only where he performs unwarranted acts but also by his inaction, i.e. failure to perform his duty with a view to inducing a citizen who seeks that official duty to be performed quickly to offer a bribe or other gratifications. Thus, both action and inaction by a public official may constitute corruption. Here, the inducement or bribe needn’t be money alone. It can be in the shape of promise of support or any other returns. Corruption can’t be at all confined to mere giving and taking of material benefits for private advantage. In some extreme cases, the beneficiary mayn’t even be an individual but a party, a faction, an ethnic group or other collection. At any scenario, however, a corrupt act presupposes the existence of a public official with power to choose between two or more courses of action and the existence of governmental power and resources in the distribution or allocation of which the public official takes unwarranted advantage of.²³

J.S. Nye’s definition appears comparatively comprehensive. It goes:

*“Corruption is a behavior which deviates from formal duties of a public role because of private regarding (personal, family, personal clique...); pecuniary or status gain; or violate rules against the exercise of certain types of private regarding influence. This includes such practice as bribery (i.e., use of reward to prevent the judgment of people in position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit; and misappropriation or illegal appropriation of public resources for private regarding uses”.*²⁴

In whatever way one defines it, the essence of corruption can thus be tentatively summarized as an illegal or otherwise improper action or inaction by a public official that runs counter to the law or public trust placed in him aimed at benefiting himself, his

relatives, friends, or/and “clients” at the expense of the public. The underlying motivation for such a pervasion of public office for private advantage may arise from the selfish and untrustworthy behavior of the official, the inducement that may come from the beneficiary, and arguably from the economic, cultural or political imperatives.²⁵ Whatever the motivation might be, corruption, which is considered as an evil that cuts across historical, cultural, and occupational boundaries, offends public sense of decency.²⁶ This implies that there are underlying conditions that supply a fertile ground for the ubiquity and persistence of corruption.

2.3 Many Faces of Corruption

As noted above, corruption is found in various spheres of socio-economic and political life of a society. It is thus apparent that the range of activities conventionally viewed as acts of corruption cover a wide spectrum of human conduct. They vary from seemingly legitimate and morally obligatory reciprocities, as to the awarding of inflated governmental contracts to favored private actors, like political party loyalists who push funds into the party political machine, to such naivities as receiving meager facilitation returns or manipulating kinship or friendship networks to circumvent government regulations or otherwise to twist the arms of justice.²⁷ Indeed, one may think of as many forms of corruption as there are instances of human interaction.²⁸ Yet, there seems no single way of in which the different forms of corruption might be safely classified with the hope of arriving at some sufficiently definite taxonomy.

Corruption breeds under extremely heterogeneous circumstances. Some times, there mayn't even be any direct, explicit and immediate return for the favor made to the beneficiary of a corrupt act. The corrupt and the corruptor may not even need to discuss the matter, but simply understand that a favor made today creates a presumption or a moral obligation for a reciprocal favor at a latter stage in time.²⁹ As the reciprocal payment is effected after a long interval, it may appear completely unconnected to outsiders. Such a subtle kind of corruption is typical of nepotism and frequently occurs in societies where family or other kinds of relationships are very strong, and thus existing moral and social codes requires that one helps family or friends.³⁰ The returns may often be made in the form of present and gifts in future occasions.

2.3.1 Types of Corruption

While the perversion of public office for private advantage is the unifying thread of all forms of public corruption, it is equally possible to draw glaring distinction between various forms of corruption. Such different forms of corruption may not, however, be mutually exclusive.

On the basis of its manifestation and the underlying motivation, corruption may be classified into political and bureaucratic corruptions.³¹ Corruption that is committed with the aim of achieving better status is commonly described as 'parochial corruption', while that done to amass undeserved money is called 'market corruption' or otherwise 'economic corruption'.³² Further distinctions may still be made between grand corruption on the one hand, and petty corruption, or otherwise known as facilitation payments or grease payment on the other, on account the status of the perpetrator and the amount of payment made.³³ Not only do the ramifications of the different forms of corruption widely vary, but also their underlying causes do defer. Hence, the need to scrutinize each.

2.3.1.1 Political Corruption versus Bureaucratic Corruption

Political Corruption: Scarcity, which is perhaps the most eternal problem in this world, constitutes the most enduring cause of corruption. An overwhelming majority of things, if not all, are scarce. Political positions are no exceptions. As a result, politicians both in developed and underdeveloped nations may (and often do) explore every possible legal as well as extra legal (corrupt) means in order to overcome obstacles and oppositions. Political corruption is thus that kind of corruption, which is manifested in activities connected with the manipulation of people and institutions in order to retain or otherwise consolidate political power.³⁴ Political corruption is a very broader concept embracing all kinds of behavior done to affect political decisions by undermining norms of the system of public order.³⁵ It may be manifested in the form of political patronage and politicization of the bureaucracy or in the manipulation of the electoral process, or even the legislative process.³⁶

Political corruption may concern the illegal pursuit or misuse of public office for political advantages. It include electoral corruption, like purchases of votes, with money, promise

of public office, or special favors, coercion, intimidation and other violations of the freedom of election of citizens.³⁷ Such kind of corruption is as old as the history of political power itself, and has not distinguished among cultures, systems of governments or ideologies. Historically, corruption spread in ancient Greece and Rome as they expanded from homogeneous city-state to strong commercial powers and imperial dominion.³⁸

Corruption manifests itself in a variety of forms and shapes. In its broadest sense corruption represent the illegitimate manipulation of the coercive potential of one's economic, social or political position to gain personal or group advantage at the cost of someone else or the society at large. This suggests that there are certain normative values cherished by the society, or by the whole of the human family, the violation of which constitutes corruption. Such normative values may be associated with justice, equality, equity, and such other ideals.³⁹ Thus, as the violation of such values can occur in both private and public spheres, corruption may be have private or public nature. In Bhargava's words, "the milk vender who adulterates milk, the grocer who uses false weights, the contractor who does a shoddy job of road building...are all corrupt".⁴⁰ But public corruption, particularly political corruption is considered to have by far blatant impact on a society. Because where a political machine is combined with trade and commerce, it sets the machinery of corruption in motion, eating the very vitals of society.⁴¹

Using official position and money power that goes with it to break into the headquarters of an opposition party and follow it up with a various cover-up activates, like the case the notorious Watergate Scandal of the Nixon Administration⁴² typify political corruption, no matter what the terminology used to describe it.

In political arena, a series of factors interplay to produce an inducement to corruption. According to Akinkoye, the onerous nature of the cost of election constitutes one factor that dictates politicians and their financiers to plan to recover their 'investments' soon after election.⁴³ Worse still, politicians are not usually satisfied with reconverting the money spent for election. They will instead endeavor to acquire more wealth for themselves and store more money for future elections.⁴⁴ Akinkoye furthers puts that

politicians are congratulated upon winning an election not because they have been given the opportunity to serve but because they have won the key to the vault from contenders.⁴⁵ In sum, political corruption occurs not only because political positions are scarce but also because prizes of office are high.⁴⁶ A certain Russian Scholar writes, "...the charisma of [political] power is so great that it offsets all the disadvantage..."⁴⁷

It should also be noted that political corruption is not confined to manipulation of the electoral process. Political power may, at its extreme, be hijacked by the military junta that usually claims that history has placed in it a "sacred duty" of protecting the nation from subversion or corruption.⁴⁸ Lapalombara concludes that corruption is among the most enduring patterns of political activity because of the fact that it works and results in the most spectacularly rewarding power.⁴⁹ He goes on to assert that the immense fortunes accumulated by families of dynasties and leaders in many states of the world can't be convincingly explained without reference to corruption along the way.⁵⁰ Thus, according to him, to ignore the impact of corruption on politics is to understand at best only half of the problem.⁵¹ Besides, the worst part of political corruption is that those who practice it will often succeed in making it obscure and invisible.⁵²

Bureaucratic Corruption: Another distinct from but at the same time systematically linked to political corruption is bureaucratic corruption. Bureaucratic corruption chiefly involves buying favors from a bureaucrat who principally implements government policies and programs. While political corruption arises from the way in which politics is financed and power is managed, bureaucratic corruption occurs in the course of administering government economic and political policies.⁵³ As Jacoby squarely puts, laws find their true expression in the hands of civil servants and bureaucrats.⁵⁴ The bureaucracy, in any system of government possesses enormous authority in the elaboration and application of laws, as well as in the implementation of government programs. Indeed, it is in the process of their implementation that government policies and programs take their true colors. It is apparent, thus, that a bureaucracy infested with corruption has every potential to ruin a nation's economy, development endeavors, social fabrics of the society.

It must be noted, at this juncture that as a country's bureaucracy can't be neatly isolated from the political power in that country, there is much interplay between political corruption and bureaucratic corruption. Various studies show that corruption is rampant in highly politicized bureaucracies.⁵⁵ Because under such situations, corruption finds a systemic and institutional ground to breed. Institutional corruption, which is often described as one form of corruption, exists at all levels of public administration, and originates from the weaknesses of administration systems and their politicization, which characterized underdeveloped countries.⁵⁶

A weak and politicized bureaucracy creates institutional or structural imperatives to corruption. Because it gives rise to symmetrical power position and situational inequalities, empowering public officials to dictate and manipulate the situation in a way that creates inducement on the part of the public to bribe them.⁵⁷ Institutional inadequacies and inequalities in all social-political interactions do not only expose one to the power dictate of another, but also creates a situation of symmetrical interdependence so that corruption thieves. Understandably, in such situations, officials can expect or even compel to be bribed by employing different illegitimate tactics, like delaying aimed at forcing people to offer bribe, and so on.

Where as the strength of any government and the success of its development programs depend heavily on the effective implementation of its policies by bureaucrats, subversion of such policies and programs in the hands on bureaucrats can put a huge blow on a country's development endeavors. This makes it apparent that socio-economic development is a function of the efficiency of bureaucracy and the probity of bureaucrats.⁵⁸

2.3.1.2 Grand Corruption versus Petty Corruption

A rough distinction is also made between high level corruption, commonly described as "grand corruption" and "petty corruption", often described as grease payments. Although corruption can occur at a variety of levels, much attention is usually directed at high level and low-level corruption.⁵⁹ Grand corruption refers to misconduct at the top and by high level politicians and involves the making of a large payment in order to secure a right or obtain an advantage that can't be secured or obtained legitimately.⁶⁰ Grand corruption

occurs at the highest levels of government and involves major government projects and programs. Government officials frequently transfer large financial benefits to private firms through procurement contracts and the award of concessions.⁶¹ Privatization processes are also known for their vulnerability to corruption insider deals.⁶² Since people in positions of power are comparatively well off and have a lot of privileges associated with their high offices, their corrupt behavior can't be attributed to low pay and out of necessity to meet the living expenses of their families. Grand corruption often involves major projects and programs, concessions involving multilateral corporations, and activities of top priority to a country.⁶³ As a result, the impact is believed to be hugely devastating. Corruption in the economic and business world is a commonplace.⁶⁴ As a result, companies may like to avoid obstacles to profit making through corrupt means aimed at preventing the application of normal and legal institutional procedures.

By contrast, petty corruption involves the payment to officials in the lowest echelon of government administration. Such payments are usually small and are aimed at securing a right that is often legitimately due, or secure it so quickly without the need to comply with legal precedures.⁶⁵ While both high-level corruption and petty corruption are reprehensible, the latter is considered to be of less concern than the former. Because the motivations behind and the consequences differ significantly. Facilitation payments are not ordinarily considered to pose an invincible threat on a county's development endeavors. As a result, the main concern, both globally and domestically, is about grand corruption. In keeping with this, combating grand corruption has been set fourth as the prime aim of Revised Federal Ethics and Anticorruption Commission Establishment Proclamation (See preamble Para 5, Proc No 433/2005).

Facilitation payments may be characterized as imposing a direct burden on the part of the private actor. This compounded with the fact that such corruption occurs routinely, makes petty corruption represent the most 'visible' face of corruption.⁶⁶ The term petty in this context shouldn't suggest, however, that the effect of such grease payments too is insignificant. Because time is money firms and individuals may be forced to bribe officials in order to avoid delays. Even worse, some times, the service may be available only to the corruptor, but not to the patient but honest.

In general, even though corruption at all levels of government administration has the potential to introduce an element of irrationality in governmental plan fulfillment, by influencing the actual plan of development in a way that is contrary to the plan, or by undermining efficiency, the effort against corruption at all levels is directed principally against grand corruption. It's submitted that the impact of high-level corruption goes beyond the mere scale of public investment and loss of government revenue. Top official may arbitrarily select projects and make purchases with little or no socio-economic rationales⁶⁷

2.3.1.3 Endemic, Planned, and Developmental Corruption

On the basis of where it occurs, Waterbury identifies three forms of corruption: endemic, planned and developmental corruption.⁶⁸ Again, it must be noted, however, that these three forms of corruption are not mutually exclusive. Accordingly to Waterbury, endemic corruption relates to the abuse of public office by those in charge of administrative systems, which are solely responsible for distributing scarce welfare services, such as education, housing, and have restrictive regulations, like import and export restrictions.⁶⁹

In contract, planned corruption is an instrument of discrimination in the distribution of public goods. In such kinds of corruption, grants, favors and reward replace the acquisition of desired goods according to legally defined, objective, merit, or rational qualifications. In both cases, corruption may take place in an organized manner or chaotically.⁷⁰ Under a well-organized system of corruption, bribers will have a good idea of whom they have to bribe and how much to offer, and feel reasonably secured of obtaining the favors for which the payment is made.⁷¹ The corrupt on his part takes a longer run view of the situation, plans to make how to best associate with the briber in a manner that ensures a continual stream of income that can be realized when the briber becomes prosperous, and will consider his interest in not "unduly harming the goose that may be laying golden eggs in the future", in Myint's Words.⁷²

Finally, Waterbury's developmental corruption, as the name suggests, occurs where there are numerous development projects by the state, in the absence of comparable private projects.⁷³ The central difference between planned corruption and developmental

corruption, according to Waterbury lies on the fact that planned corruption aims at a massing wealth, while developmental corruption is used to retain political power at all costs⁷⁴

Apart from the above rough classifications and forms of corruption, there are other forms of corruption, such as that known as “State Capture”. State capture corruption is one in which private corporations seek to shape government decisions to derive specific advantage, often through the imposition of anticompetitive barriers that generate highly concentrated gains to selected powerful firms.⁷⁵ There are also situations whereby officials commit corruption just out of obsessive impulse regardless of economic needs. Such kind of corruption is described as “kleptocracy”.⁷⁶ Yet, by no means are these the only forms of corruption.

2.4 Causes of Corruption

Any discussion about corruption is bound to question why people corrupt. Surely, corruption like all other crimes is a result of cases. Hence, we need to examine those cases if the problem has to be solved from its root. Yet, due to the complexity socio-economic, cultural, and political phenomena, it is doubtful that corruption can be located to certain definite causes.

Like corruption has many faces and manifestations, its causes are equally manifold and complex. It is not, therefore, practically possible to name down every single cause of corruption. Studies show that corruption is a part of all societies of the world.⁷⁷ As a result, it is being considered as a major global threat. Nonetheless, there exists a huge difference in terms of the degree, entrenchment, prevalence, and character of corrupt activities among counters of the world. In any case, once corruption is considered as a major problem, especially to developing countries of the world, its causes must be identified if a workable strategy is to be devised to decisively reduce its occurrence.

However, identifying causes of corruption is never an easy task. First, factors that are responsible for one form of corruption are not usually causes of other forms of corruption. For example, low pay and necessity to cover living expenses of family

members are most often, than not, ascribed to be major inducements of corruption by officials in the lowest echelon of public administration, particularly in Africa.⁷⁸ The idea is that civil servants with insufficient salaries to meet the living expenses of their families are driven by necessity to engage in corrupt practices. At the other end, however, high-level corruption by leading politicians can't be attributed to low pay. Instead, greed, the desire to remain in office, the need to dispense favors among political allies, colleagues, etc, are considered to constitute the main motivating factors. Here, it needs to accentuate that the line between "need driven" and "greed driven" corruption is not bright. It is even difficult to determine where one ends and the other begins.⁷⁹

Secondly, a broad set of causes of corruption is intrinsically intertwined with one another, and reinforces one another. In a very generalized way, absence of rule of law, poor governance, lack of exemplary leadership, lack of accountability and transparency, long period of single party rule, monopoly of power by an elite group, poor public participation in governmental affairs, extreme poverty and inequitable distribution of income, weak legal and judicable system, absence of strong and independent media, undemocratic electoral process, poor national feeling, etc are considered as causes of corruption.⁸⁰ Each of the above factors has its tail or head in the political system, nature of bureaucracy, or otherwise in the socio-economic and cultural situations prevailing in a given society. Accordingly, though not with crystal clarity, all cause of corruption may be classified into the following broad categories.

2.4.1 Politico-Bureaucratic Causes

2.4.1.1 Political Causes

It is virtually impossible to discuss the issue of corruption without making reference to the political context of a nation. Precisely because corruption has a political dimension, and its magnitude depends greatly on how power is managed by politicians.⁸¹ Corruption occurs in both authoritarian or democratic and pluralistic political systems. The discovery of the Nixon's Scandal has become an eye opener that corruption can occur anywhere and in all systems of government. That event, notoriously known as the 'Nixon Watergate', after an attempted burglary at the office of the Demotic National Committee

in the Watergate Building in Washington led to the revelation of a plethora of scandals-signaling that politicians, chief executives included, may threaten and undermine the foundation of a political system by attempting to retain power at all costs even in leading democracies.⁸² And a political power won through an illegitimate means is more likely to be deeply corrupt in its management. Because political corruption are committed mainly for promises of positions. As a result, those who have proven to possess corrupt mentality and have shown that they have the capacity to do every criminal act to hold power will assume the promised office. Generally, corruption is likely to be widespread where there are no workable restraints that would ensure transparency and accountability in government operations. It is also crystal clear that corrupt politicians have little or no moral courage to control over enforcement agencies and regulatory organs thus giving way for the perpetuation of corruption.

Indeed, while corruption described as a kind of relationship between the state and the private sector, the analysis of corruption about which form of government is accommodative of corruption has remained as an ongoing and inconclusive debate.⁸³ It is also recognized that the analysis of corruption for much of the second half of the 20th twentieth century had been dictated by ideological motivations. As part of the ideological tension between the two blocks, socialist-minded scholars argue that the central goal of an individual in a capitalist system is to 'make it' i.e. become wealthy so as to be able to afford all the good things that life can offer in abundance.⁸⁴ In other words, the materialistic views, love of wealth, and affluence and leisure are the deriving forces of corruption, according to leftists.

Liberal thinkers, on the other hand, have it that the nature and prevalence of corruption depends not just on the organization of government but rather on the organization of the power of the private sector.⁸⁵ The critical issue, according to this line of thought, is whether either the government or the private sector has monopoly power in dealing with the other. Hence, to the extent that a democratic government disperses power among officials, it may give each one a very tiny share of the state monopoly. By contrast, in a political system where there is political projection in every aspect of national activity,

such as agriculture, industry, commerce, and even sports and literature, corruption finds conducive ground to spread.⁸⁶

The idea is that sometimes state officials are more dominant; in other cases private actors are the most powerful forces in the relationship. The relative bargaining power of these parties determines both the overall impact of corruption and the distribution of benefits out of a corrupt deal.⁸⁷ A successful reduction of corruption, according to this argument, thus requires limiting the respective bargaining powers of both state officials as well as the private sector, by creating a competitive private market as well as establishing a competitive system of politics.⁸⁸ Generally, while western writers argue that the regimentation and concentration of economic and political power in the hands of the few breeds corruption, communists regard the capitalist system as the fountainhead of corruption. They look upon the evil as the exclusive offspring of the system of private profit.⁸⁹ Very unfortunately, however, the problem of corruption can flourish in both systems.

2.4.1.2 Bureaucratic Causes

It is conceded that the nature of bureaucracy may present a structural invitation to corruption. As already noted above, inefficiency, lack of transparency and accountability, absence of monitoring mechanisms, unlimited discretion, etc, are among the many factors that are facilitative for the spread of the epidemic of corruption. Where the government bureaucracy is infested with functionaries who have been picked up for their loyalty rather than their competence, corruption is likely to spread since bureaucrats discern little about the dividing line between what is legitimate and what is not. No doubt that a highly politicized bureaucracy filled by loyalists who have little comprehension of how to manage public resources, including the power itself, will give rise to bottlenecks and delays in the provisions of public service. Bottlenecks and delays in turn provide the ground for corrupt practice. To obtain government services such as licenses individuals and enterprises will be willing to pay for the service to cut the delay or because the profits would take care of bribes and tips paid.⁹⁰ Once accepted as normal, not only will

it perpetuate but also the real burden of it will be shifted to consumers who will have to buy goods and service at an increased price revised to regain tips and bribes paid.⁹¹

The other dimension of the story is that a government official appointed on the basis of exclusively his political loyalty is likely to possess unlimited discretion, and may arbitrarily bend laws and regulations, both of which are fatal to the good working of a bureaucracy. It is clear that the greater the element of discretion, the greater will be the chance that power will be used to someone's advantage rather than for the intended public purpose. Thus, the absence of clear and precise rules that restrain the discretionary powers of officials and bureaucrats contribute greatly to the provision of a fertile ground for corruption. In away, an official with discretionary power is in a position of monopoly since he can grant or deny the benefit sought.⁹²

Here, putting in place precise and rigid rules may sometimes run counter to the objective of creating an efficient bureaucracy. The lack of discretion can make rules too rigid and this could create obstacles to the proper functioning of public administration. At times, workers who want to embarrass their employer organization may comply rigidly with existing rules to bring the organization to a stand still.⁹³ Thus, presenting discretionary power as a cause of corruption shouldn't imply that discretionary power should be eliminated. Even though discretionary loopholes account for a major part of the pathway to corruption in may countries⁹⁴, elimination of discretionary power altogether is neither possible nor desirable. It is not at all possible to set forth in advance crystal clear rules and regulations that squarely fit with every particular case that emerge from time to time. It is, therefore, inevitable that public officials will sometimes have to determine public matters on the basis of imprecise standards, like "essentiality", "reasonableness" "reasonability".

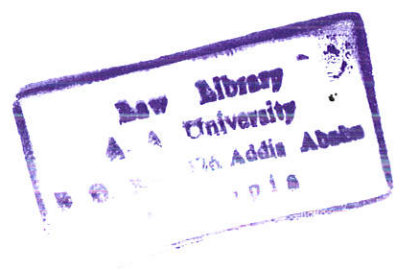
Finally, it must be understood that there is an enormous interplay between political causes and bureaucratic causes. At all levels of government most instance of political corruption are likely to involve the administrative sector.⁹⁵ The structural conditions such as administrative expertise, access to privileged information, clientelistic relationships, antipathy and disdain of administrators along with the discretion they are given in the

implementation of government programs are just a few of the many factors that bridge the two.⁹⁶

2.4.2 Socio-Economic Causes

Economic deprivation and social frustration have always been ascribed in explaining the roots of crime. A careful observation of the incidences of corruption, Odekunle writes, suggests that in many cases the behavior of the actors is characterized by insecurity (economic or otherwise) arising from the sheer unpredictability of the consequence of their action.⁹⁷ In this vein, since socio-economic insecurities and pressures commonly accompany corrupt behaviors, ensuring to its citizens a respectable life and existential assurance is what it takes a nation to reduce corruption.⁹⁸ Indeed, providing the necessary structural security, such as employment, remuneration will help to improve proper conduct both at the individual and institutional levels. However, economic growth, salary increment, etc can't at all cure all kinds of corruptions. As we have noted earlier, not all forms of corruption are necessity driven crimes. Salary increment is unlikely, for instance, to reduce political corruptions or even high-level economic corruptions.

Inversely, some relate corruption to socio-economic modernization. According to this view, whether rapid or at a moderate pace, modernization brings corruption at its wake.⁹⁹ People who pursue this line of argument try to sustain their views by historical accounts. According to Bhargava, the USA was more corrupt in the nineteenth century than in its preceding and following centuries.¹⁰⁰ Similarly, the highest point of corruption in the history of Britain coincided with the impact of the industrial revolution and the concomitant emergence of new classes.¹⁰¹ Rapid economic growth, among many other things, is also considered as one of the major factors of corruption in the USA.¹⁰² Where socio-economic modernization is said to breed corruption, the reference is not merely that industrial society which, in the words of Lincoln Stephens, "offers prizes [money, position or power] for doing evil"¹⁰³, but also to the systemic and attitudinal changes that accompany modernization. Such may be explained in terms of sharpening the distinction between public welfare and private gain, the emergence of new forms of wealth and power, and the politician businessmen syndrome.¹⁰⁴ Jefferson goes on to state that,



politicians take bribes because businessmen give them and the latter give because they have and can.¹⁰⁵

Implicit in the economic modernization cause is the assumption that economic modernization is accompanied by changes in the value system of the society. The values of a society under economics transition are likely to encourage or at least remain apathetic to a self-seeking behavior. A crisis in value of changing societies results in the subordination of socio-political values so much so that politics turns from achievement of public goals to promotion of individual interest

2.4.3 The Cultural Cause Controversy

Western writers have tended to overemphasize the cultural relativism of corruption. The reason is that despite corruption's ubiquity cuts across cultures, its magnitude and character are defined by different social and cultural contexts as well as time dimension. Even though studies reveal that corruption is generally ramified in underdeveloped countries than in advanced ones, it is not, however, true that the least developed state is the most corrupt one. Still, cultural relativism is seriously considered as a compounding factor of corruption.

While trying to explain alarming proliferation of corruption especially in the under developed world, western writer often assert that in such countries, corruption is reinforced by the entrenchment of cultural factors that consider corrupt behavior as normal and acceptable.¹⁰⁶ This is not, however, convincing an argument for may scholar particularly from the developing word. In fact the complex reality of corruption may lead to making a number of assumption with respect to why corruption occurs. For example, Odekunle wonders, "how can a society accommodate a phenomenon that is normal and not normal at the same time?" Well, such an enduring question presents a complex puzzle to authorities in the area. Nonetheless, to argue that cultural realities in some societies reinforce corruption seems an incomplete explanation. It also contradicts with the stark fact that corruption is an infamous behavior in almost all modern societies. In fact, it must be admitted that since the term corruption is a stigma, no one society at all

wants the word tagged on his/its name. Every one condemns it, and no one confesses corruption. Yet, it is the act of human beings.

The reality is, however, there is no society that is immune from corruption. In the study of corruption it is often assumed that society, is pure in structure and functions and that corruption is alien to it.¹⁰⁷ As a result, if corruption occurs, there is some standard of behavior, which has been breached by that corrupt behavior. But such assumption seems too ideal and doesn't seem to adequately explain why corruption is rampant while it is condemned by every body's lips. It is a real paradox indeed that corruption is condemned as an evil and at the same time finds widespread acceptance as a way of life. Evidently, a subtle difference in culture and basic values exist across the world. Indeed, corruption has to do with many factors including the structure of society.

In a society where extremely high value is attached to wealth, affluence and leisure, official and bureaucrats are likely to find themselves under enduring temptation. Also, where corruption is prevalent, citizens will be compelled either to condone it or choose to live with it because there is nothing that they can do about it. This suggests those officials who are dominated by a selfish desire may feel that they will not have to look far to satisfy while they have public resources at their disposal. Even those who resist corrupt temptations may gradually step into it where corruption is a common place.

Studies also reveal that in a society where family or neighbor relations are so strong, government employees, just like other individual, would be expected to help relatives and friends with special treatment or favors.¹⁰⁸ In such societies, personalism and cronyism might even require bending, or even breaking administrative rules. Since refusing to do so would conflict with the accepted norm that families and friends come first, a person who refused to provide the expected favor would be unpopular.¹⁰⁹ Even worse, where social relations are very close, it may be difficult to establish a direct link between an act that is assumed to be corrupt and a particular payment made for it.¹¹⁰ Because an official or employee who, using his official position does a special favor may be compensated at a much later time by way of a generous gift upon a particular occasion, and so on, rather than with an immediate bribe.

To sum up, some behaviors considered as corrupt at one time and place may not be so considered at another. Indeed, this is a complicating factor in the treatment of corruption. The practice of ‘gift giving’ in order to secure a favorable treatment from rulers had been perfectly normal in our society almost until the end of the imperial era. Even today, nepotism-the practice of awarding public office and other privileges to relatives and friends is not considered unequivocally corrupt behavior in all countries of the world.¹¹¹ In many nations, close inspection shows a surprising amount of persistent nepotism in the recruitment of government employees, both civil and military.¹¹² The catch phrase, “it is not what you know, it is who you know”, is suggestive of the prevalence of nepotism in employment. In many societies, nepotism manifested in helping family, members, friends, and acquaintees over strangers is considered to be the required pattern of behavior for public office holders.¹¹³ Still, all these don’t imply that all forms of corruption are related to cultural causes. Nor do the above facts suggest the popular acceptance of corrupt behaviors.

Such an over emphasis on the general cultural milieu may suggest the spiritual value as distinct from material pursuits are an antidotes of corruption. Thus, we need to examine deep into the underlying causes beneath the supposed ‘cultural’ relativism. For example, we have seen above that “gift giving” to rulers with a view to receiving a favorably treatment in return had been a normal practice in Ethiopia. But was that because corruption conformed to Ethiopian cultural milieu, i.e. it had social approval, or because there were structural and systemic imperative for doing so? Indeed, rulers who demanded bribe were very infamous. People used to give bribes not because doing so was felt right but because prevailing systemic imperatives compelled them to do so. Providing a deeper insight into the nature of corruption thus requires not only examining the existing notion about it and condemning it, but also scrutinizing the social structure and interrelationships that generate corruption.

2.5 Consequence of Corruption

In whatever way one may conceive it, corruption involves acts, which are against public interest, or violate certain legal or moral values and principles. Some of these acts are

directly harmful to the public as in the case of an engineer who, in return for a gratification allows substandard construction materials to public constructions, such as schools, hospitals, and bridges that eventually collapses claiming the lives many people. The effect of other acts may on the other hand be indirect and even difficult to quantify. It is not, for instance, unusual to hear from young university graduates who enter the public service or even the private sector in present Ethiopia that they often find a jungle of nepotism and favoritism through which they have to hack their way. Bright potentials will, therefore, find no clear road along which they can travel and rise by sheer dint of ability, integrity and merit. While poor countries like Ethiopia loudly claim that the greatest asset they can depend on is the enthusiasm and idealism of their youth, corruption has the potential of turning such enthusiasm into cynicism. Such young professional will either fall into the groove, and wallow in corruption or get desperate and disheartened, leave their beloved country, and so on.

In general, the consequences of corruption are manifold and complex. It is held that corruption constitutes the greatest waste of human and national resources in any society.¹¹⁴ Capital accumulated by leading officials in poor countries that ends up in Swiss Banks is a net blow in the development of those underdeveloped countries.¹¹⁵ The most notorious among the very many dictators who have bankrupted their own poor countries include former Zairian president Mobutu Sese Sekou and Ferdinand Marcos of the Philippines. According to Onyango, Mobutu, who has effectively ruled his country for well over three decades is believed to have amassed a fortune far in excess of his country's national debt, bankrupting what must be one of the richest nations in the continent.¹¹⁶

No doubt that corruption also leads to an irrational and inefficient allocation of a country's scarce resources. Public money that is direly needed to ameliorate the socio-economic conditions of people under extreme poverty will be diverted to private use. Clearly, corruption represents an increase in the cost of public administration. As Bayley persuasively puts it, a person who is both a taxpayer and a bribe giver has paid several times over for the same public service.¹¹⁷ On the part of the government too, a delay in performing public service for which an official or employee is paid is a huge loss. Also,

corruption weakens the ability of governments to carry out their functions efficiently. Bribery, nepotism, and venality can cripple public administration and dilute equity and predictability in the provision of government services, undermining social cohesiveness.¹¹⁸ Grand corruptions have the potential of shifting decision-making power from public officials to private individual and foreign corporations who push big bribes. This essentially eats away popular sovereignty. A corrupt person in a vital position of government may also pose a threat to national security for one motivated by profit and not by feeling of loyalty can readily trade the nation's interest to obtain personal favors or profit.¹¹⁹

Corruption is, therefore, a stark betrayal of social trust in government agencies to promote public interest. When people discover that it has misplaced its trust, there arises resentment against officials.¹²⁰ Citizens who are denied access to their fair share of public resources because they can't afford the price may also bear grudge not only against their corrupt officials but also against rich members of the society, who got their wishes fulfilled by greasing the palm of officials.¹²¹ It may therefore impair the overall integrity of the polity and social cohesiveness in a society. It stigmatizes the image of government, weakens its credibility and reduces the effectiveness of development programs and policies. Perhaps worst of all, corruption can contaminate the future generation, as it blows not only the economy but also the moral fabric of the society. Energetic citizens will be forced to hold poor attitude to work. Where movement to the top is determined by other measures beneficial to the bosses rather than hard work and merit, the employees' morale gradually degenerates and results in non-chalant attitude to their job.¹²²

Where individual achievement is measured solely in terms of success in material wealth, where political power and institutional authority is accompanied by rule bending and cheating, where rules are ignored as instruments for regulating behavior, and when institutional sanctions that promote order become inoperative, indiscipline and moral decadence in the society are inevitable.¹²³ Gardiner writes, "Over the years the issue of corruption has affected both the type of men who have sought public office and the platforms on which they have run."¹²⁴ On the contrary, in spite of all the above evils of corruption, there are arguments asserting some positive consequence of corruption. Thus,

for a clearer conceptualization of the problem, we need also to examine the benefits, if any, of corrupt practices. No doubt, understanding its real character helps to make better and more realistic planning.

2.5.1. "Positive" Consequences of Corruption

A number of arguments are advanced in favor of recognition of corruption's positive consequences. Most of these arguments, however, stem from one basic paradox of why corruption finds widespread acceptance as a way of life in the society that out rightly condemns it. Odekunle wonders, "corruption is a fact that we shamelessly bribe officials, and we turn around and denounce them as corrupt."¹²⁵

Some arguments underlie on refuting sociological studies that are made on corruption. According to these arguments, the very idea of eradicating corruption is built on a fallacious assumption that corruption is alien to society, while the reality is that society is not pure in structure and functions. Some writers even carry this argument further and hold that the conditions for socio-economic development is not necessarily the absence of corruption, and go on to advise that it needs to recognize its inevitability in society and devise means to control and utilize it to development.¹²⁶ There are also views that tend to propose that corruption can be optimized and utilized in development activities.¹²⁷ A Nigerian scholar, Onigu Otite believes that corruption has probably been a positive contributor in the development of the Untied Sates.¹²⁸ Yet, Otite should have considered that if corruption were a facilitator of development, it was Nigeria, not Untied States that could have developed.

The most common argument constructed in favor of corruption goes that corruption can help to speed up cumbersome administrative procedure by cutting down redtapism. In his analysis, Nye has argued that corruption can in fact help to facilitate development in a number of ways.¹²⁹ According to him, corruption can be an important source of capital formation, especially in countries with meager private capital and where there is inefficient tax collection of a surplus out of it.¹³⁰ The direct version of this is where government is inefficient or unwise in its spending and priorities, or where it lacks the capacity to tax surpluses properly, resorting to tax avoidance may help not only the

evader but also the public for such accumulated capital may be better utilized for development by entrepreneurs. Nye further argues that corruption has yet another 'noble' benefit in promoting potential development by enhancing national integration, and particularly by facilitating the integration of the ruling elite.¹³¹ According to Nye, therefore, too much check on corruption can delay development.

Nye has also the support of such scholars, like McMillan who vehemently argue that corruption enhances achievements on the basis rationality, universalism, and specificity.¹³² The idea is that a corrupt government may not necessarily impede socio-economic development. By contrast an efficient and elaborate bureaucracy can reduce or remove redtapism when gifts and bribes are injected to act as an incentive.¹³³ According to this pursuit, corruption and the challenge to excel others in competitive bidding and payment of bribes may produce efficiency. It is in this sense that corruption is considered as lubricating the rusted machinery of governmental bureaucracy. In our discussion above, we have lamented that corruption can transfer political decision-making from public officials or representatives to the hands of few individual who push bribes. But, surprisingly enough, such a situation is interpreted and understood by some as providing a chance for groups other than politicians to articulate their interest by maintaining a channel of being represented in the political process¹³⁴

Yet another sympathetic argument goes that corruption can be beneficial in a system that discriminates against certain ethnic or political groups by making it possible for such unprivileged groups to gain some access to a better socio-economic position.¹³⁵ Once such unprivileged groups get on the top, such unprivileged groups would reciprocate the same discrimination against other groups to create political equilibrium.¹³⁶ This can be backed by another outmoded notion that widespread corruption could provide resentment against an oppressive and unpopular government and promote a chance a beneficial revolution.

Finally, in addition to being an incentive to both official and those who value their time highly, it is argued, corruption helps tax collection. According to this view, when routine corruption is tolerated, tax collectors will seek tax revenue.¹³⁷ But it needs also to

remember that toleration of corruption at any level encourages its spread to other areas with harmful consequences.

When we put all the above arguments on balance, we find that all are lame and indefensible. Any of these arguments don't also take into consideration the huge impact corruption may bring on a society's social, economic and political prospects. It is often claimed that especially petty corruption works positively as a lubricant to facilitate government service. But this argument ignores the fact that officials may also create corrupt opportunities against the government. In India, for instance, telecommunication operators moved from expediting calls to failing to bill customers.¹³⁸ In Italy too, officials ask bribes just to do their job.¹³⁹ As a result, the rest of the society suffers even longer holdups. Secondly, is it not possible to improve government administration so that taxpayers can obtain efficient service without the need to bribe? The argument that corruption is inevitable doesn't show its utility. In fact, other kinds of criminal behavior are inevitable. Yet, none is desirable!

To say that corruption helps capital accumulation by corrupt officials and corrupt business people who evade taxes and distort government law and regulations, by diverting funds is not only surprising but also leads to blind conclusions. Those people who bribe and are bribed are too selfish and greedy, who clearly don't lose sight of what they are doing. As a result, instead of investing it, they will likely cart it to foreign banks. The argument that corruption paves a channel for rich people to be represented in the political process appears too outrageous. While modern political processes provide a mechanism whereby every body may be represented, such an argument aims at snatching popular sovereignty of the electorate. The argument that corruption facilitates the collapse of infamous governments also begs a question. To start with, such governments are infamous probably because they are, *inter alia*, corrupt, and it's doubtful that the overthrow of same through revolution could bring benefit to the society. Finally, if corruption were beneficial, the real solution is to decriminalize it, not to blame and turn to practice it.

2.5.2 Adverse Consequences of Corruption

As generally pointed out above, corruption represents a crucial threat not only to socio-economic development, but also the very survival of nation. It affects the economy, the moral fabric of the society, political stability, and what not. For a clearer conceptualization of its characters, therefore, we shall further breakdown the adverse consequence of corruption into the following components:

2.5.2.1 Economic Consequence of Corruption

All status, whether benevolent or repressive, control the distribution of valuable benefits and the allocation of national resources. Such distribution and allocation of scarce resources are often under the control of officials who possess discretionally powers. Where corruption is a commonplace, government institutions designed to regulate the interrelationship between the private sector and the state are used instead for personal enrichment and the provision of benefits to the corrupt.¹⁴⁰ The price mechanism, which often results in economic efficiency and growth, can be undermined by corrupt acts.¹⁴¹

Corruption can generally reduce the power of the state to play its corrective and regulatory role properly. In a way corruption may result in a “privatization” of the state without its power being shifted to the market, as would privatization normally imply, but to corrupt officials and bribe givers.¹⁴² In such state “privatization” deals, managers and representatives of firms spend many hours colluding with government officials. Very surprisingly, a study revealed that, in Ukraine, proprietors and senior managers spent an average of 30% of their time dealing with officials in the year 1996.¹⁴³ The high cost of dealing with public officials is also readily imaginable. Those firms that can’t meet the required bribery may also be induced to operate in the informal sector and many other resort to fraudulent practices, like underreporting sales, and so on. Principally, firms pay bribes to obtain certainty, but the certainty may be illusory as they can’t enforce corrupt deals.¹⁴⁴

It must also be noted that the epidemic of corruption also presents a stubborn challenge to investment, especially to sectors that are susceptible to hidden corrupt fees, hence an

investment disruption. Evidently, when politicians and bureaucrats and their cronies divert aid to off shore banks, channel investment to a favored few, and skim off shares of public contracts, poor members of the society and the country as a whole will remain poor. At times, corrupt practice turn against the very safety of the society. Under public regulatory programs, firms and individuals may pay to get a favorable treatment of the rules or to lighten the regulatory load. Rules and regulations can be used by corrupt officials as a means of enriching themselves, instead of promoting public interest. Rules can be easily bent in return for payoffs. Such may at time cause direct dangers to the society. For example, after a department store collapsed in Korea in 1995, it was discovered that the contractors used substandard concrete and that city officials had received bribes to allow the violation of safety rules.¹⁴⁵

The adverse impact of particularly grand corruption is massive. The effect of corruption on a higher scale associated with top officials and their cronies can be manifested in terms of embezzlement of huge sums of public funds, mismanagement, wastage, inequity, and the concomitant social decay, all of which are disastrous for an economy.¹⁴⁶ The devastating impact of grand scale corruption, especially for poor countries that are facing perennial and severe underdevelopment and backwardness is so conspicuous that requires no further comment. Yet, there are other complicated adverse effects that can be damaging economically. As the impact of corruption on economic growth is very complex, we shall further break it down into the following rough components for better and realistic scrutiny.

Paralyzes State Machinery: Corruption distorts both the allocative and distributive roles of the state in myriads of ways. By definition, corruption represents the forced diversion of national wealth intended for the effective achievement of socially desirable ends into private hands, resulting in deprivation and impoverishment of the society to the advantage of the very few.¹⁴⁷ Thus, it surely exacerbates the situation of the poor by aggravating the gap between the “haves” and the “have notes”. Where there is pervasive corruption, best jobs, most profitable government contracts, and other government goods go to the well connected. Under such situations individuals and firms will be able to reduce their tax payments, and this in turn renders the activity of the government to

improve the distribution of income and make the economic system more equitable unsuccessful. Where corruption is high, the cost of government is likely to grow, while its ability to correct the shortcomings of the market falls.

It is no accident that in planned economies, where states assumed nearly a monopoly over regulation of economic activities; corruption seems to be everywhere.¹⁴⁸ Generally, in all its ramifications, corruption is likely to have adverse implications in the distribution and allocation of resources as well as stabilization of the market by the government. Precisely because, in a corrupt system, the well connected enjoy economic privileges, economic rent will be widespread; as a result wealth will be concentrated in the hands of a tiny minority.¹⁴⁹ Thus, income distribution becomes highly uneven. The direct outgrowth of such uneven income distribution leads to irrational and distorted consumption patterns. This involves import of a rich variety of luxury goods, flashy cars, lavish home furnishings, state of the art technology products, and fancy goods of all kinds, including child toys that the world market can offer, while the overwhelming majority struggles hard for survival.¹⁵⁰ No doubt that in a country where capital is highly scarce, the government shall endeavor to discourage irrational consumers behaviors. Looking extremely expensive cars cruising along dirty roads indisputably evidences a very poor distribution of wealth. It is in this light that we need to evaluate where we are heading.

Impact on Investment: The adverse impact of corruption on investment is massive and worrisome. According to Mauro, there is strong connection between high-level corruption and reduced investment, and consequently growth.¹⁵¹ His analysis of data from close to one hundred countries suggests that a reduction in corruption by 2.38 points on his ten-point scale would increase a country 's investment by 4%.¹⁵² It seems obvious that allocation of public works, or procurement contracts to enterprises that win the contract not because they can do the job better or at least cost but because of the bribes they pay and other connections doesn't only raise the cost of investment but also discourages honest investors who like to be judged by the quality of their work and offer they make. A report by the World Bank revealed that investment is damaged most where corruption is commonplace.¹⁵³ Such impact of corruption on domestic as well as foreign investment is particularly damaging to a developing economy, like Ethiopia.

As Myint correctly describes it, bribes may have to be paid at many levels of investment or even before any investment takes place and upon entering negotiation, and so on.¹⁵⁴ Where corruption is everywhere, the procurement of leases for land or building, permission to engage in activities of production, marketing, import and export, obtaining such basic utilities as water, electricity, etc, can involve payments of bribes. Unfortunately, however, an investor who pushed such a substantial payment has no guarantee that bribe takers will live up to their part of the bargain.¹⁵⁵ Thus, corruption not only raises the initial cost of investment but also can significantly reduce investment by substantially increasing risks and uncertainties for a firm.

Understandably, foreign direct investment helps augment the much-needed capital resource in a poor country. It also somehow brings technology, know-how and managerial skills that improve a country's international competitiveness. What is more important, it increases employment opportunities and assists in improving labor skills and discipline. But these advantages of foreign direct investment will be forth coming to a country only if it creates conducive climate for investment. At a more fundamental level, corruption effects both the quality and quantity of foreign investment by making it difficult for a low income country to establish and maintain clear, consistent and reliable legal and economic milieu, which are critically vital for an orderly and proper conduct of investment. The distraction in planning priorities also aims at diverting investments into those sectors where corrupt appropriation is easier.¹⁵⁶ In sum, it is indisputably patent that the existence of transparent and corruption free bureaucracy is today so crucial to attract foreign investors as is the existence of an independent and impartial judiciary.

Impact on Government Budget: Studies show that government activities that involve financial transfers from the private sector to the public and vice versa, such as tax collection, import and export activities, procurement contracts, government purchases, and so on are very much susceptible to corruption.¹⁵⁷ As a result, corruption can affect both the revenue and expenditure sides of the government budget. Paying bribes to reduce taxes, fees, customs duties, which are common in many countries, do result in serious losses of revenue for the government.¹⁵⁸ The consequence of corruption on

government revenue mainly relate to poor and inefficient tax collection, dubious privatization processes, and such major sources of state revenue.

It must be recognized that customs duties and tax payments are always burdensome. In addition, customs agents are in a position to control access to the outside world. As a result, individual and firms collude with tax collectors and customs agents with a view to lowering the taxes they should pay and expediting the services they obtain, making government revenue collection both inadequate and unfairly distributed. The experience of many African countries illustrates the magnitude of such problem. In Gambia, for instance, the revenue forgone from customs duties and income tax in the early 1990's amounted to 8-9% of its GDP.¹⁵⁹ Income tax evasion alone was estimated around 70% of the revenue due.¹⁶⁰ In sum, the distortionary effect of a high level of corruption is more than clear and requires no further comment.

Regarding public expenditure, corruption officials fall back on no socio-economic logic in planning projects. Corruption adversely affects the composition of government expenditure. This is because large benefits can be realized from corrupt deals on expenditure items that are expensive and whose costs are not apparent, and which are considered to serve some high national priority and thus have to be undertaken in a discreet and secretive way. Purchases of weapons, and fighter jets typify this situation, according to Myint.¹⁶¹

Rise Underground Economy: Yet another economic cost of corruption is manifested by the growing of illegal business. Because corruption in all its forms is onerous, business people could be induced to turn into the informal business in basically two ways. First, where bribers are accorded with a favorable treatment from government officials in terms of tax reduction, import permits, credit, or otherwise, given preference over others through arbitrary, i.e. "non' arm's-length" application of rules and procedures, they will be placed at a competitive advantage.¹⁶² Thus, corruption destroys the neutrality of government laws and regulation by giving illegitimate preference for some over others, defeating the principles of free market economy. As a result, those businesses that can't afford the required bribe necessary to remain viable competitors will be forced to resort

to the underground sector. Secondly, corruption, as noted above, increases business risk. A briber has no assurance that the bribe he has given will work and will get his wishes fulfilled. As Wei correctly puts it, corruption is a heavy “tax”, but the predictability of its rewards is low.¹⁶³ As a result, even those who can afford the bribe may engage in the informal sector for lack of confidence in the regular government procedures.

Besides, as corruption influence requires scarce resources such as money, access to elites, and so on, it is likely to benefit only the few 'haves' at the expense of the vast majority. As a result, enterprises, particularly those small ones will be expelled from the competition and will be forced to resort to the illegal business sector.¹⁶⁴ Here underground economy may constitute in either of two forms: one, there are those that are inherently illegal activities, such as smuggling business, drug trafficking, illicit foreign exchange, and so on. The second form consists of those activities that are legal but are not officially reported with a view to avoiding or evading taxes and similar reasons. The connecting thread is that both are illegal and affect the macro economic predictability of a nation. Where a large portion of an economy goes underground, official macro-economic assessment regarding level of inflection, official exchange rate, official interest rate, and overall economic performance will be highly unreliable.¹⁶⁵ This makes it difficult for the government to formulate workable macro economic policies.

2.5.2.2. Social Consequent of Corruption

Corruption is undoubtedly a serious social malaise with the potential of eroding public probity and morality that subverts the attainment of overriding national goals. Corruption strips away dignity and pride, and leads to moral decay. Corruption promotes and perpetuates moral decay in a society. Corruption receives much widespread condemnation and is associated with evil because it is an act of deviation from the accepted standard of behavior in a society. The social consequences of corruption are highly related with economic consequences, and both are difficult to measure in quantitative terms but reinforce each other.

In any society there are laws and regulation that are meant to promote social objective and to protect the public interests, like building codes, traffic laws, etc. As already

mentioned above, the violation of such law through corruption causes serious social harm. Violating building codes through connivance of corrupt officials and building contractors has resulted in the collapse of department stores, schools, apartment buildings, bridges, etc in many countries.¹⁶⁶ Shoddy workmanship, use of substandard materials and disregard for proper design and engineering specifications due to corruption in the construction of large and expensive dams and bridge have caused bridges to collapse and dams to burst, resulting in extremely heavy human and material losses.¹⁶⁷

Impact on Human Resources: Corruption is often considered responsible for the loss of specialized skill and expertise, especially in the context of African countries. Citizens of nations engulfed by systemic corruption who are sent abroad for training, and so on, refuse to return to their countries because of corruption. Simply stated, the history of corruption has dissuaded competent and energetic citizens from running for office or working for their country, and even worse has forced them to leave their countries.¹⁶⁸

Generally, the effect of hiring and promotion of individuals who wouldn't have been selected or promoted on the basis of fair and objective criteria not only damages the economy, by lowering the quality of decisions made and increasing the frequency of mistakes made by those improperly hired or promoted, but also highly discourages those more competent and qualified but less-connected individuals from pursuing their career vigilantly. As a scholar observed, where the best jobs go predominantly to those with special connection, the incentive to work hard in school and to get good education becomes valueless.¹⁶⁹ Moreover, individuals will seek to get jobs not in areas in which they have particular abilities but in areas, which provide more scope for higher rents and illegitimate earnings.

When and where corruption is there in its blatant form, even official salaries will not play a significant role in attracting qualified individuals to a particular job that doesn't generate extra earnings. Those with marvelous managerial skills and those with greatest potential to contribute to growth shun productive jobs and will be gravitated towards activities likely to generate substantial return regardless of its productivity. A study

conducted few years back in South East Asia has found out that the number of individual taking the examination to become tax inspectors has increased significantly in spite of the low wage that the job pays.¹⁷⁰ The study arrived at a conclusion that individuals have sensed that the job, i.e. tax inspection, though low paying, provided opportunities to generates higher extra earnings, that better paying jobs couldn't.¹⁷¹

Impact on Reform: Perhaps the worst effect of corruption is its tendency to perpetuate itself. Ingrained corruption can hold back any reform. Firms that are well connected with politicians or have benefited from payoffs will resist efforts to introduce reform through increasing the clarity of rules and laws and other measures.¹⁷² Not only that but also their allies within the state apparatus may share such a resistance against efforts to make government activities and procedures more open and competitive. Clearly because reform requires greater accountability and transparency, free and fair competition, deregulation and increased reliance on market forces, fair completion as well as limiting discretionary power, all of which limit opportunities for corruption.¹⁷³

2.5.2.3 Political Consequence of Corruption

The other enduring and damaging consequence of corruption is that it weakens public support for government.¹⁷⁴ Loss of trust in politicians and respect for the performance of government may also lead to devastating conflicts. In history, revolutions are usually the results of corruption and nepotism among rulers and administrators.¹⁷⁵ Corruption has directly contributed to the collapse of many governments throughout history. This is underlined by historical evidences. Corruption was identified as a serious problem in ancient China, in Ottoman Empire and other civilizations.¹⁷⁶ The French Revolution was caused by widespread corruption in the government. Similarly, one of the major causes for the Russian October Revolution was corruption among Czarist bureaucracy.¹⁷⁷ Even today, sandals continue to haunt many countries, including most advanced ones. In developing countries, may military rulers who snatched political power through unconstitutional means usually claimed that history made it imperative for them to discharge the responsibility of rescuing the nation form the scourge of corruption and nepotism. Corruption was a major justification for the military overthrowal of the

Ghanian civilian government in 1981, for the fall of the governmental in the Philippines in 1986, and many others.¹⁷⁸

The reason seems very straight. Where investment funds are diverted into private benefits, where there is wastage and misallocation of skilled manpower because of nepotism, where there is diversion of useful talents and energies from productive avenues into rent seeking and planning corruption strategies, poverty is bound to worsen, government capacity to weaken, and the legitimacy of the government to be eroded. When popular confidence in leadership acutely falls and its legitimacy undermined, the political organization will be weakened, it will be delegitimized in the eyes of its citizens, and ultimately leads to political crises.

2.6 Corruption in Ethiopia

2.6.1 The General Feature of Corruption in Underdeveloped Countries

In spite differences in entrenchment and pervasiveness, corruption exists in all countries. Corruption is not, therefore, peculiar to underdeveloped countries. That is exactly what scandals in the US, Europe, Japan and such other advanced countries remind us. While corruption can indisputably occur in any society, there is, however, immense difference in the underlying conditions that create corrupt opportunities in the first place and encourage its perpetuation. These include the degree of assurance that citizens have that things will be done in the legal and proper way; the degree of security that is enjoyed by doers and receives of corruption; the existing sense and level of probity; the prevalent value system; the degree of inequality in the distribution of wealth; the entrenchment of poverty; the strength of legal and social enforcement mechanisms; and finally the seriousness and success in checking corrupt practices.

Generally, the magnitude of corruption in a society is the function of, *inter alia*, the above factors. The combination of those factors also determines the nature of corruption that occurs in a country. In rich countries, such as the USA, for instance, instances of politicians and top bureaucrats enriching themselves while in office have been very rare.¹⁷⁹ Instead, it is money power that is frequently a source of political power. As those

who want to make money can go into business where opportunities for success are plentiful, people don't often seek public office just for money.¹⁸⁰ Inversely, the rich enter politics where their wealth bestows an advantage on them, and may thus commit corruption in their long way to office. The result is, therefore, there is much likelihood for political corruption rather than bureaucratic facilitation payment. On the contrary, the opposite works for poor countries where political office is sought to get opportunities to make money, obtain such necessities as better housing, and so on.¹⁸¹ As a result, bureaucratic corruption is rampant in poor countries as compared to advanced ones.

Yet another factor that needs to be firmly placed in mind is that in country's where governance realm has been fairly entrenched and the development of civil society, public participation, media activity, etc, is developed, there exists a remarkable vigilance against corrupt practices should they occur.¹⁸² Such factors also subject public officials to a closer public and legal scrutiny. In underdeveloped countries, on the other hand, endeavors to set up strong and durable institutions based on predetermined rules and procedures have not satisfactory materialized. The absence of such institutions compounded by the complex and pervasive character of the modern state system has served as a breeding ground for an unabated proliferation of corrupt practices in such countries.¹⁸³

In general, effective anticorruption laws, media exposure, the vigilance of civil associations, the existence of modern management system, established line of institutional accountability and transparency of state operations, and the strength and independence of the judiciary are among the most remarkable instruments that helped to contain corruption at its lowest level in developed countries. By contrast, underdeveloped countries lack a good measure of the above arsenals against corruption. As a result, corruption is routine, endemic and systemic. It also persists unabated. Also, if corruption is systemic, it means that corrupt bureaucrats will have a strong backing from top politicians; hence, they escape punishment just for their political loyalty. Other factors can also be mentioned in connection with the unabated persistence of corruption in underdeveloped countries. The first is the demarcation between public and private realms are not sufficiently clear even for those who hold public office. The public and

bureaucrats in undeveloped countries often have poor ideas about the demarcation between polices and administration between state and society, and individual and collective interest in general.

Interestingly enough, we hear and see that citizen in developed countries confronting an omnipotent state structure in order to have their rights recognized when they disagree with the government. In underdeveloped countries, however, citizens are often at the mercy of the huge, all-powerful state apparatus. Citizens are very fearful to confront or even openly disagree with pubic officials even where they are legally entitled to. Such fearfulness of citizen may be attributed to unpleasant past (and to some degree continuing) experiences at the hands of the state. Daniel Jacoby argues that citizens are fearful because life has not always been kind to them or because they are more familiar with the actual political customs.¹⁸⁴ Now, we can judge the nature of corruption in our country in light of the foregoing discussion.

2.6.2 Corruption in the Ethiopian Context: Historical Account

There is an acute dearth of study with respect to the nature, magnitude and manifestations of corruption in Ethiopia. The term “musinna”, the Amharic for “corruption”, in its present sense doesn’t seem to have been widely known until less than a decade ago. In fact, in the literature, we find the Amharic word “musinna” carrying an entirely different meaning. This fact evidences that corruption had not been a subject of serious scholastic scrutiny in this country. In no way should this suggest, however, that corruption had been non-existent in Ethiopia. In fact, creative writers, novelists, dramatists as well as literary critics have been suggesting the various aspect of the problem in this country. On this issue, Joseph Lapalombara has the following to say:

“From time immemorial peasants who have rightly viewed governors as often capricious, arbitrary, and dangerous have sought to protect themselves through bribery, very much as they have made symbolic and material offerings to protect their livestock and crops against capricious “acts of God” ¹⁸⁵

Lapalrmbara's observation doesn't make reference to any specific country. It appears, nevertheless, that it somehow describes the history of corruption in our country. In Ethiopian history, it was not only monarchies that enjoyed absolute power over their subjects. Political power had been nearly absolute at any level of the administrative echelon. Accordingly, "gubo", the Amharic word for bribery seems to have long existed in our political history. It doesn't mean that other forms of corruption never existed. Indeed, they have existed in their blatant forms. Scanty studies show that prior to the advent of modern state administration around the turn of the twentieth century, bribery and other forms of corruption, including but not limited to disposing public function arbitrarily, favoring "clients" and supplicants, etc constituted the rule rather than the exception.¹⁸⁶ Channeling the return of official power for private use without facing any censure was the rule of the day.¹⁸⁷ But as we had remained a feudal society for much of our history, where the patrimony of the realm and of the kings was indistinguishable, where the latter could dispose of it as they wished, or give it to their friends, wife, mistress, or members of the aristocracy or successful warriors, and where political power was under the exclusive monopoly of the few, corruption may appear a meaningless concept under such political context.

Most importantly, if corruption by definition consists in a deviation from normal and accepted government regulations for the purpose of aggrandizing one's personal or group interest as opposed to the interest of the collectively, it partly presupposes a fairly elaborated and sufficiently understood rules of conduct in the political and administrative process. Much of our history doesn't, however, warrant the existence of such rules of conduct. For these reasons, it is difficult to assess or even identify many forms of corruption, save for bribery in the context of much of our political history.

In recognition of the ruinous effects of corruption, anticorruption measures began to be taken only around the mid-nineteenth century. Historical records evidence that Emperor Theodros II endeavored, as part parcel of his efforts to modernize government demonstration in this country, to set up an incorruptible and responsible bureaucracy that would be loyal to him and honestly serve the public.¹⁸⁸ The Emperor further reinforced

his plan by establishing an institution entrusted with monitoring the propriety of official acts at the lower echelon of his government.¹⁸⁹

But Emperor Theodros left Ethiopia while much of his widest vision to come a reality later by Emperor Menelik II. Following the consolidation of power by the latter, Ethiopia began to experience fundamental changes in terms of modernizing government administration. It was during this period that much of the groundwork was put in place. The increased exposure of the country to various aspects of modernity made it imperative for the proliferation of bureaucratic machineries. As a result, there happened an enduring tension between the old practice of channeling return of official power for private use with impunity and the newly introduced system that fairly regulated government conduct.¹⁹⁰

In the history of corruption in Ethiopia, it is also worthwhile to mention an incidence that happened during the regency of Ras Teferi (the future Emperor Haile Sellassie I). Mahatma Sellassie presents a wonderful account of an incidence of public demonstration whereby the people expressed its vehement outrage against and demanded the removal of corrupt officials, including ministers.¹⁹¹ Interestingly enough, the government complied with the popular demand and removed all officials found out to be corrupt.¹⁹² Yet another landmark measure against corruption is the enactment of a degree that outlawed the traditionally accepted practice of receiving money and other forms of gratification by public officials.¹⁹³ Nonetheless, corruption flourished all along mainly due to lack of transparency and accountability in governmental activities, disregard of rule of law, and arbitrary, politically motivated decisions¹⁹⁴

2.6.3. Corruption in Present Ethiopia

Although corruption has always existed, its expression is achieving new heights in recent years. We all feel, and sometimes hear and see in our daily lives that unauthorized rewards to influence people in position of authority either to act or to refuse to in order to benefit the private advantage of the giver and often the receiver; improper use of influence on subordinates; misappropriation of public funds and resources for private gain; nepotism or bestowing undue favor towards one's friends, kinship relations, or

recently ethnic associations is becoming widespread in Ethiopia. We have also repeatedly heard official diverting public funds, including relief foods for their private ends. What is more, through corruption activities have been in existence in Ethiopia for a long time, its scope and coverage, its systems and complexity, and its amount and/or types seem to have significantly changed over recent years.

In fact, there are many who argue that corruption has eaten deep into the fabrics of our society. The government has also on various occasions declared that corruption in present Ethiopia represents one of the greatest challenges to national development, or even to the very existence of the nation. Evidently, embezzlement and misappropriation of public funds are highly widespread in Ethiopia, especially in regions.¹⁹⁴ Yet, despite such an apparently rampant nature of corruption in Ethiopia, there is an acute dearth of scientific information regarding its cause, nature and consequence, and degree of prevalence. Research findings are acutely scanty. We will thus have to rely on very few and scattered studies and the perception index by Transparency International (TI).

The relatively recent survey undertaken by the Institute of Educational Research of the Addis Ababa University has come up with a restatement of the much-expected fact that corruption is rife among our society and that it is taking toll of public resources as well as the economic resources of the society.¹⁹⁵ In fact, the study indicated the prevalence of the social menace at every stage. This survey was undertaken on the same year of the establishment of the Federal Ethics and Anticorruption Commission in this country. Surprisingly enough, no similar survey has been made since then,¹⁹⁶ and hence it is difficult to know whether the situation has improved or otherwise worsened since the establishment of the commission.

One strikingly worrisome mention that was made in the findings of the above study was that people have no confidence in the legal machinery in this country. Owing to the prevalence of widespread corruption and bribery, families chose other alternatives to their problems instead of presenting their cases to the courts whereas the businesspersons also used to bribe officials to get their cases finalized in time as the bureaucratic red tapes used to take more time, according to the study.¹⁹⁷ All these studies and reports can

simply be taken as mere restatements of the reality that corruption is severely affecting socio-economic activity and the normal intra and inter-public and private sector interactions in the country. Certainly, corruption is becoming a serious impediment for our country's socio-economic development aspirations, according to the report.

The survey, which also considered the role of the family, government officials and the business community, has further indicated such most corrupt government institutions that have been providing poor services to the society, as the Customs Authority. Land distribution, housing, courts and the taxation systems in the country are also rated as corrupt and inefficient, according to the survey.¹⁹⁸ Various news reports also indicate the existence of widespread violations of established procedures in day-to-day activities of public offices.¹⁹⁹

The report by Transparency International (TI) on the prevalence of corruption in Ethiopia is never encouraging. The 2003 international report on corruption issued by TI indicates that corruption is a widespread phenomenon in this country. The Corruption Perception Index of TI, which estimates the degree of corruption in a country as perceived by such stakeholders as business people, academics and risk analysts, has a range of estimates between 10 and 0. While 10 represents highly clean while a move towards 0 indicates highly corrupt. Accordingly, the 2003 Corruption Perception Index stood at 2.5 for Ethiopia.²⁰⁰ Compared to the number of countries that were included in the survey, which totaled 133, Ethiopia ranked 92nd, according to the same index.

In fact, the report being just a perception, its accuracy could be doubted. Still, it certainly provides us with a rough indication of where we are heading. Most unfortunately, Ethiopia's rating by the same TI in 2004 has further degenerated to 2.3.²⁰¹ Here we need to note that according to TI, a score below 5.0 suggests a serious corruption problem. The above rating, therefore, shows that this poor country is suffering from the grip of corruption. It may be possible to contend that Ethiopia is not as corruption-ridden as Nigeria, Kenya etc, as often heard from the government itself. However, by all standards, the situation is highly worrisome, according to both reports shown above.

CHAPTER THREE: THE RIGHT TO DEVELOPMENT

3.1. General Remark:

The adoption by the General Assembly of the United Nations of The Universal Declaration of Human Rights (UDHR), otherwise described by some as the "Bill of Rights of the mankind", on 10 Dec 1948 is so legitimately considered as a major step forward in the advancement of human civilization. The UDHR basically comprises of just a consolidated text of almost the entire range human rights and fundamental freedoms that have subsequently been recognized under the various international and regional human rights instruments.¹

The UDHR being just a declaration, rights contained in it had to be transformed into binding conventions so that signatories will somehow assume definite obligations. While the United Nations Commission on Human Rights started drafting such conventions, it was split on the question of whether there should be one or two conventions.² The debate took very long and in 1950 the General Assembly, emphasizing on the interdependence and indivisibility of all categories of human rights, called upon the commission to draft a single convention.³ Nevertheless, the influence of western nations, particularly of the United State was so overwhelming that succeeded in reversing the resolution, and finally separate conventions were adopted: the International Convention on Civil and Political Rights (ICCPR), and the International Convention on Economic, Social and Cultural Rights (ICESCR).

In the years that have since gone by, there developed a tendency of considering the international Bill of Rights as consisting of two distinct categories of human rights. In spite of the fact that all human rights are embraced by the a single human rights platform, i.e., the UDHR, and the declared belief of the world community that all human rights are interdependent, inseparable and reinforce one another⁴, human rights are now commonly labeled into different "generations". While the so-called "first generation" human rights that embrace the more commonly known civil and political rights or sometimes called 'negative rights', as recognized in the ICCPR have been enjoying much attention in the arena of human rights discourse and practice, the "second generation" rights, that refer to

economic, social and cultural rights as embodied in the ICESCR are much less well known, and only rarely do they form the subject of concerted political action, media campaigns or critical reportage, etc.⁵ Our objective here is not to discuss why economic, social and cultural human rights are the poor relation of their civil and political counterparts. It is rather to emphasize on the persistent divergence in the treatment of human rights in dissonance to the declaration that all human rights are placed on an equal footing, with an emphasis on their indivisibility, interconnection and interrelationship in the UDHR and in subsequent international documents.

Analysis of legal norms and substantial body of principles embodied in the United Nations (UN) Charter and international Bills of Human Rights demonstrate the existence of yet another category of human rights, known as the right to development. The human right to development, which is often referred to as Africa's contribution to the realm of human rights represents, among other rights, the so-called "third generation" human rights. The right to development and all other human rights that fall in the category of "third generation" rights generally emphasize on the indivisibility of human rights, and are meant to serve as mainstreaming mechanisms of all other human rights. It is with this understanding that we will treat the notion of the *right to development* in this chapter.

3.2. Theoretical Basis of the Right to Development

3.2.1. Evolution of Human Rights in General

Through out the revolutionary history of human rights, three core aspects of human existence have been sought to be safeguarded: human integrity, freedom, and equality.⁶ Axiomatic to the above three aspects are the right to life, and respect for dignity of every human being, the promotion and fulfillment of which underlie in the recognition of physical, intellectual and spiritual nature of humanity, which in turn change and evolve over time.⁷

It is, therefore, indisputably clear that the contemporary understanding of human rights is the product of reflection and implementations of rights over several centuries. It is generally recognized that the cradle of human rights discourse properly speaking is to be found in the intellectual insights and stiff individual and group struggles of the seventeenth century.⁸ Originally, human rights ideals were articulated as a general

philosophy about human dignity, equality and freedom in relation to political authorities.⁹ The initial general and very scattered principles that emerged to constrain the power of authoritarian rulers gradually began to be advanced in the form of civil and political liberties.¹⁰ The notion that people shouldn't be subordinated to anyone except themselves emerged subsequently. It is this notion of popular sovereignty that serves as a framework for further elaboration of human rights.¹¹ The earlier rights were, therefore, largely the product of nation-state systems in which the state was first seen as threat to the rights of the individual. Gradually, ideas developed relating the role of the state as a protector of rights and later as a provider of socio-economic opportunities.¹²

In history, civil rights, laying the foundation of the notion of equality of all members of the society before the law, are considered to be the achievements of the eighteenth century, while political rights constitute the principal achievements of the nineteenth century.¹³ The twentieth century is credited for the advancement of ideals towards the recognition and endeavors to the fulfillment of the right for satisfactory conditions of life of human beings individually and collectively¹⁴, albeit very much remains yet to be done. Still, when it comes to third worlds countries, states are either too weak or too much the instrument of the ruling class to protect and provide the conditions for the realization of the first and second generation rights. Hence, the advancement of people's human rights mainly by the third world. The rights to development which, to use the words of Shepherd represents, "claims of world's poor and deprived majority against the injustice of the global power system and their own tributary states"¹⁵ is, it is asserted, an inalienable human right without the recognition of which all other human rights can't be realized in the context socio-economic hardships poor countries are facing.

3.2.2. Theoretical Underpinnings of the Right to Development

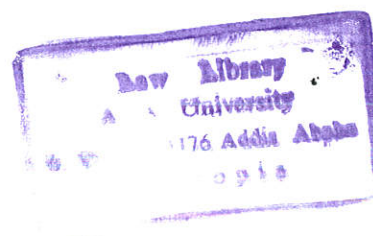
The right to development, which is generally considered as a major branch of the tree of third generation or solidarity rights within the human rights framework, can be rooted in the provisions of the United Nations Charter it self, the UDHR, and the two International Human Rights Covenants mentioned above. Conceptually, the origin of the right to development can be derived from such broader principles, like the right to self-

determination and permanent sovereignty over natural resources, non-discrimination, the principle of inter-dependence and of international co-operation, etc.

The right to development is, therefore, according to some authorities, already a recognized principle of international law beyond dispute that is founded on the principles of the U.N. Charter, namely sovereign equality of States, non-discrimination, the principle of inter-dependence and of international co-operation.¹⁶ Indeed, the Charter of the United Nations includes pursuance of development as among the goals of its agenda for economic and social cooperation, and under the Charter, states pledge to contribute within the UN system to the promotion of development and respect for human rights.¹⁷ Thus, from the UN's inception, development and human rights have been closely identified, one can argue.

Also, few among the many objectives of the UN Charter, as enshrined in its preamble include: the promotion of social progress and better standards of life, the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and promoting and encouraging respect for human rights and for fundamental freedoms for all of the human family without distinction on whatsoever basis. Article 55 of the Charter specifically requires the United Nations to promote higher standard of living and ensure universal respect for human rights and fundamental freedoms. Thus, member States have undertaken to promote higher standards of living, full employment and conditions of economic and social progress and development and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.¹⁸ Still, what specific impact such may have on the policies of member states is not yet crystal clear, some argue.¹⁹

Also, perhaps the greatest contribution of the UDHR can be expressed in terms of providing the a single platform for all kinds of human rights. suggesting that all categories of human rights are interrelated and mutually reinforcing. The UDHR contains a number of provisions that became central to the understanding of the right to development. It attaches particular importance, for example, to the dignity and worth of the human person, economic, social and cultural rights indispensable to man's dignity, the



right to non-discrimination, the promotion of social progress and better standards of life, the right to participate in public affairs and such other important corner stones of human rights.²⁰ It also contains everyone's entitlement to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized.²¹

The two subsequent Covenants, i.e. the ICCPR and the ICESCR, that are considered as the binding versions of the UDHR have further elaborated the ideals initially expressed in the form of a declaration. It is even argued that the process of positivization of human rights at the international level started with the adoption of these covenants in 1966.²² While the UDHR is considered as the foundation of human rights, the above two Covenants constitute a more elaborate framework for numerous human rights that have interrelated components. Whereas the right to adequate standards of living lies at the core of social/economic rights, it is embraced by both the UDHR and the two Covenants.²³ The opening articles of the two covenants also declare the human right to self-determination with respect to one's political, economic, social, and cultural development. The two covenants, especially the ICESCR enshrine important provisions that further suggest the existence of the right to development as previously implied by both the UN Charter and the UDHR.

As a result, the right to development has been part of the international debate on human rights at least for the last three decades²⁴, albeit it has not yet entered the practical realm of development planning and implementation.

3.3.The Right to Development: A Broader Notion

3.3.1. The Notion of the Right to Development

Development is a complex phenomenon, encompassing not only economic interests, but also socio-political concerns.²⁵ It is also, like corruption, a value word. It is always a normative concept because it is directed toward the objectives that people desire.²⁶ Development generally encompasses both personal and social changes that move towards consciously chosen goals.²⁷ The Declaration on the Right to Development underscores that development as a comprehensive process consists in and involves sustainable improvement of the economic, social, cultural and political well-being of all individuals

and peoples.²⁸ It is, thus patent that development aims for the realization of all human rights: economic, social, cultural, as well as civil and political rights, and for the greatest possible freedom and dignity of every human being, individually and collectively. In this vein, individuals and all peoples have the Human Right to Development, and to other fundamental human rights linked to and dependent upon the realization of the Human Right to Development.

Most often, than not, the right to development is linked to the enhancement of socio economic conditions, which supply the material basis for improved standards of living. Some times, however, the right to development is understood as representing the personal (or even spiritual development) of man as apposed to improvement in material terms. For example, the percepts espoused by the UN Commission on Human Rights emphasize on restoring to mankind his true dignity and spiritual prosperity. It once described the right to development as constituting an essential recognition of age-old attempts to fulfill the uniqueness of mankind in the sense that it represents a formal recognition of the right of man to foster that part of him that transcends beyond race, color, sex, language, etc and realizes his very essence²⁹

The idea that concept of development embraces both material and spiritual development the human kind can further be evidenced by the Declaration on Social Progress and Development adopted by the UN General Assembly. It states that, "social progress and development shall aim at the continuous raising of the *material and spiritual standards* (emphasis added) of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms."³⁰

Apparently, therefore, the right to development as a human right implies the provision to every individual of the possibility to exercise the entire complex web of human rights that are necessary for the overall development of one's personality as well as social and economic rights that determine the material basis and the conditions of people's lives.³¹ Yet, the precise meaning and status of the right to development is still debatable.³² During the past twenty years, there has been considerable discussion regarding the exact nature of the right to development vis-à-vis international law and specifically human rights.³³ International consensus has not, however, as yet crystallized over the precise

content of the right to development.³⁴ This may be attributed either to the extremely comprehensive nature of the concept of development or to the deficiency of political will due to varying political goals pursued by states or both.

The conceptual clarity of the right to development has frequently been at issue. The United States, a nation known for its persistent rejection of the notion of development as a human right, has once complained that the formulations and definitions used to describe the right to development are not clear and require rethinking before they can be taken seriously.³⁵ In 1981 the representative of the U.S. to the UN Human Right Commission commented that, "the concept of 'development' is itself in need of development".³⁶ This clearly reflects the lack of full consensus on the concept of the right to development. Indeed, that constitutes one of the chief reasons for the failure to transform the declaration on the right to development into a binding covenant. Still, because the notion human right is always progressive, we hope that a full consensus will emerge over time.

3.3.2. The Right to development as Unifying Thread of Human Rights

The fact that the protection of human rights is linked to socio-economic development is already indicated in the UN Charter. In like vein, article 28 of the UDHR recognizes the right of everyone to a social and international order in which the rights and freedoms set forth in the same declaration can be fully realized. Conversely, it is a stark truth that human rights can't be meaningfully protected within the context of harsh realities of underdevelopment.

All human rights and fundamental freedoms are indisputably linked to the right of existence. This fact has also been carried forward as the right to existence which in turn is necessarily linked to an increasingly higher standard of living, and therefore to development. In recognition of this, attempts have been made to derive the right to development from the body of principles embodied in the UN Charter and international Bills of Rights as reinforced by a range of conventions and declarations. In 1966, the right to development as a human right was mentioned for the first time by the foreign minister of Senegal.³⁷ Since then, there have been many debates and controversies on the issue of development as a human right. After passing through a very lengthy and controversial process and preparation, the right on development as an inalienable human

right has finally been adopted by the UN General Assembly on 4th Dec, 1986 with one (USA) casting against and eight abstentions.³⁸

The declaration defines the right to development as, " An inalienable 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".³⁹ The most conspicuous element of this definition is that all human rights and fundamental freedoms are brought under one unifying tie. Consequently, the right to development is often understood as holistic approach to human rights whereby all rights are mainstreamed. The declaration itself confirms this fact and treats human rights as an indivisible whole.⁴⁰ The right to development is, therefore, an independent human right and at the same time a prerequisite for the enjoyment of other rights.

The indivisibility of human rights has been emphasized at various occasions by various specialized agencies of the United Nations. The Office of the High Commissioner for Human Rights (OHCHR), for instance, in collaboration with the human rights treaty bodies on the realization of the right to development, often underscores the interdependence of the various sets of rights.⁴¹ In addition to providing substantive and organizational support to the open-ended Working Group on the Right to Development, the OHCHR emphasizes the nexus between human rights and development. In this context, the OHCHR accentuates on the contribution that the reporting process can make to development planning and programming.⁴²

More recently, even those UN agencies that didn't initially pursue human rights agenda as their principal objectives are involving themselves in human rights works. In response to the current Secretary-General's call for the integration of human rights into all areas of the United Nations system in the context of UN reform, The United Nations Development Program (UNDP) has, for example, developed a specific policy on human rights entitled, "integrating human rights with sustainable development".⁴³ It also cooperates with the OHCHR in initiating and organizing annual regional seminars and workshops on the right to development and rights-based approaches. In 1999, OHCHR

and the UNDP initiated the joint Human Rights Strengthening program that seeks to enhance UNDP's capacity to integrate human rights into its development work.⁴⁴

In general, the recent tendency is towards treating the right to development as a synthesis right that integrates all human rights. The Independent Expert does not, however, share the view that the RTD can be understood exclusively as a "synthesis right." He wrote:

"The right to development is a composite right to a process of development; it is not just an "umbrella" right, or the sum of a set of rights. The integrity of these rights implies that if any one of them is violated, the whole composite right to development is also violated."

It is a "vector" of human rights composed of various elements that represent the various economic, social and cultural rights as well as the civil and political rights.⁴⁵

To sum up, a glance at the Declaration on the right to development suffices to grasp the fact that there is almost no human right that is not linked to the right to development. The preamble, which reveals the spirit of the declaration not only emphasizes the interdependence and indivisibility of human rights but also presents the necessary link between the right to development and virtually all human rights set forth under the UDHR and the subsequent Covenants. The right to development, as can be gleaned from the preamble of the declaration, therefore embraces human rights including, but not limited to, the right to self-determination, the right to sovereignty over one's natural wealth and natural resources, the right to social and international order conducive for the realization of rights enshrined in the declaration and all human rights recognized under both Covenants.

3.3.3. The Right to Development and Permanent Sovereignty over Natural Resources

The United States is the only nation that voted against the adoption of the right to development in 1986. The USA government persistently rejected the notion of development as a human right. As an alternative, however, the United States presented a proposal that, "all people may, for their own ends, freely dispose of their national wealth and resources without prejudice to any obligation arising out of international economic

cooperation."⁴⁶ According to its proposal, an effective development and utilization of resources is possible only through facilitating and providing opportunities for individuals so that they will freely develop their full potential as a human being in all areas of human endeavor to bring about national development.⁴⁷

The right to sovereignty over natural resources is bedrock principle upholding the current international law system wherein nation states are the primary actors and objects in international law. It is in this vein that it has been embedded in Article 1, paragraphs 1 and 2, of the ICESCR. According to Owen J. Lynch, five existing international norms are especially relevant for addressing controversies embracing the convergence of human rights, economic development and environmental protection. These are: self-determination, permanent sovereignty over natural resources, the right to development, the right to environment, and, participation.⁴⁸ Of these, says Lynch, "the international community in general acknowledges only self-determination and permanent sovereignty over natural resources as forming part of customary international law and specifically of international human rights law".⁴⁹ This statement clearly depicts the fact that the movements for self-determination and permanent sovereignty are old-aged as compared to the right to development. The right to self-determination and permanent sovereignty over natural resources are rooted in the calls for self-determination and later for permanent sovereignty over natural resources began to be demanded since the conclusion of the World War II especially by those developing countries previously under colonial domination.⁵⁰

In the past three decades, the right to development has considerably been seen in conjunction with the right for self-determination and permanent sovereignty over natural resources. This movement has received a formal recognition by the adoption the Declaration on the Right to Development which emphasis the rights of people to exercise full and complete sovereignty not only to determine their economic, social, political, and cultural destiny but also over the use of their natural wealth and resources⁵¹

3.3.4. The Right to Development and Solidarity

In relation to forerunning topics, we have seen that the UN Charter embodies a new approach to international relations, by laying down as one of its supreme goals, the

creation of conditions of stability and well-being for all of the human family and by imposing on all members thereto the corollary obligation of promoting higher standard of living, full employment and conditions of economic and social development. No doubt that these general terms need further crystallization into detailed and more specific rules, creating specific rights and obligations. In an attempt to crystallize the obligations already pledged by States parties under article 56 of the UN Charter, there emerged a third generation of rights that emphasis not only on the indivisibility of all kinds of human rights, but also on their universal nature, and calls for international cooperation on the notion of international solidarity.

Third generation of rights otherwise called solidarity rights encompass the right to development, the right to peace, and the right to ecologically balanced environment, and such related rights.⁵² Sometimes, rights that have been recognized under the 1966 Covenants, such as the right to self-determination, the right to existence, and the right to food are included to the list of solidarity rights.⁵³ The name solidarity right is because it is assumed that the realization of such collective rights requires global cooperation on the basis of international solidarity.⁵⁴ All movements towards the advancement of solidarity rights don't, however, take uniform tone. For some, the right to development is keenly related to the right to existence. It is asserted that, while the right to existence is the foundation of the rights of all people, such right is closely related with the right to development, especially in the context of developing countries.⁵⁵ Differently put, the striking inequalities of nations in both their national wealth and possibility of satisfying the elementary requirements of livelihood in poor countries can be addressed only through the realization of the right to development. To this end, principles of equity and solidarity are critically vital.

On the other hand, there are some who present solidarity right as the united movement of the poor and the exploited against the injustices of the rich.⁵⁶ In this sense, solidarity movement represents the right of the poor and repressed majority to participate in and control of their resources, develop their economy and for the enhancement of their basic life requirements.⁵⁷ At any rate, globalization, which is regarded as a process that has been going on for the past 5000 years, but has significantly accelerated since the demise

of the Soviet Union, is making a concerted global action imperative in human rights arena too. Particularly following the conclusion of the cold war and the associated collapse of the communist system, the traditional doctrine of nonintervention is leaving way to legitimate intervention as far as human rights are concerned.⁵⁸ This can be partly explained by the increased recognition of some human rights standards as fundamental principles of international law and thus treated as international legal obligations for states.⁵⁹

In the Copenhagen Declaration of the 1995 World Social Summit, governments committed themselves to create a framework to promote universal respect for, and observance and protection of all human rights and fundamental freedoms, including the right to development by underscoring on the vitality of international cooperation.⁶⁰ The Declaration pronounced that although states have the primary responsibility, the international community, the United Nations, the multilateral financial institutions, all regional organizations and local institutions and local authorities, and all actors need to positively contribute their own share to the achievement of development goals.⁶¹ The world community has declared the need to draw up international cooperation and solidarity on various other occasions too.

3.3.5. The Right to Development and the Right to Peace

The right to peace is yet another new right that has not been expressly recognized by any of the 1966 Covenants. It is thus categorized under the so-called third generation human rights. Most understandably, peace and development are interrelated. As a result, it is argued, the international community can't be assured of durable peace as long as underdevelopment, which is being exacerbated by widening economic disparities between nations, persists.⁶² Thus, ensuring a peaceful and viable international order requires global development as a precondition, the argument goes.

Accordingly, the declaration on the right to development, like the UDHR, attaches utmost importance to practical measures of disarmament.⁶³ Clearly, such measures are vital not only from the perspective of ensuring international peace but also avoids waste of valuable resources which need to be streamlined to the enhancement of social and economic condition. Evidently, therefore, due to the profound correlation exists between

peace and development, ensuring the right to development immensely contributes towards creating a peaceful international order.

There are also growing tendencies that assuring the right to existence through the right to development is a necessity, which is in the general interest of the world. Accordingly, it is put, the right to development shall be the foundation of contemporary discourse in the field of progressive development of international law.⁶⁴ The African Charter on Human and Peoples' Rights also espouses the same idea. It declares, " the realization of the right to development is closely related to the conditions of preserving world peace."⁶⁵

3.4. The Right to Development as a Human Right

In spite the adoption of international human rights instruments suggesting its existence, the right to development has never been mentioned as a human right until the late 1960s.⁶⁶ The 1969 Report of the United Nations Secretary General entitled "The International Discussion of the Right to Development as a Human Right" which called for, among many other things, the promotion of respect for human rights in general including the human right to development which, it emphasized, should be part of a new international development strategy, is considered as one of the first articulations to have contained development as a human right.⁶⁷ This is but absolutely normal for the concept of human rights in general in always progressing.

In its resolution 4/33 of 21 February 1977, the Commission on Human Rights decided to pay special attention to elimination of the obstacles impeding the full realization of economic, social and cultural rights, particularly in developing countries, and of national and international action to secure the enjoyment of those rights. Recognizing the right to development as a human right, the Commission further recommended the undertaking of a study on "the international dimensions of the right to development as a human right in relation with other human rights based on international cooperation."⁶⁸

The Commission subsequently established a working group comprising of fifteen governmental experts to study the scope and contents of the right to development and assess the most effective means to ensure its realization, with particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of

human rights.⁶⁹ The same resolution also requested the Working Group to submit a report with concrete proposals for implementation of the right to development and for a draft international instrument on the right to development.

From that time on, the status of the purported right to development as a human right began to be reported and affirmed in a number of United Nations instruments including General Assembly resolutions and conference declarations. The UN General Assembly again reaffirmed in 1982 the right to development as an inalienable human right, with particular emphasis that international peace and security are essential factors in achieving the full realization of the same right.⁷⁰

Finally, after a very long debate and controversy, the General Assembly adopted a Declaration on the Right to Development which in indisputable terms acknowledges the right to development as "an *inalienable human right* (emphasis added) 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".⁷¹ The declaration further elaborates that the human right to development implies the full realization of the right of peoples to self-determination, and emphasizes that the human person is the central subject of development and should be the active participant and beneficiary of the right to development.⁷²

The world community has on various occasions reaffirmed that the right to development is an inalienable human right even after the adoption of the declaration. For instance, The Vienna World Conference on Human Rights once again recognized the right to development as a universal and inalienable right constituting an integral part of fundamental human rights with the corresponding obligation of States to cooperate with each other in ensuring development and eliminating obstacles to development.⁷³ Yet, in spite of all those acknowledgements, the right to development has not as yet been expressly articulated in traditional "hard law" form. In fact, this is a weak point in its status as a recognized international human right law.

3.4.1. The Human Right at Issue

Outstanding concerns about the right to development can't be resolved by merely addressing questions, like whether it is a collective or individual human right; whether it is a distinct human right or really a synthesis of other human rights, and so on. The very subjects of such a right, i.e. whether it is exercised by states or individuals and groups, and which states or other entities are responsible for ensuring the realization of the right are also fundamental questions often at issue. In viewing this issue states have always been at variance. Third world countries consistently forward views that states are the subjects of the right to development. The right to development, it is claimed, can be enjoyed by both individuals and states, as a right of access to the means necessary for development.

The UN General Assembly itself has endorsed this idea by emphasizing that, "the right to development is a human right and that equality of opportunity for development is as much the prerogative of nations as individuals within nations".⁷⁴ However, if human rights are to be understood as rights every one enjoys by virtue of his being a human being, it may appear a misnomer to define states as the subjects of human rights. In fact, nowhere in any of the international human right instruments is a precise definition to human rights expressly spelled. Yet, reading human rights instruments in conjunctive harmony suggests that we are dealing the relationship of persons with the state. The evolution of human rights as shown above too leads to similar conclusion. Hence, conventionally, a human right represents the rights of individuals or groups with the corresponding obligation of the state within which the person concerned lives.

Under the declaration on the right to development, individual and group appear to be the only right holders. According to article 1(1) of the declaration, in addition to all peoples, every human person is entitled to the rights mentioned. Otherwise, we don't find any provision that explicitly mentions states as subjects of the right to development. Just the opposite is true instead. States are the primary duty holders under the declaration.⁷⁵ Therefore, despite the above resolution of the General Assembly and the persistent claims lodged by poor countries, presenting states as the subject of the human right to development seems less convincing.

The question of whether there exists a right to development as a legal right under international law lie at the core of any discussion on the subject. Because the 1986 declaration on the right to development is not binding, whether there exists a specific human right to development under the existing international human rights law is disputable. Hence, the precise meaning and legal status of the right to development under international law is still open to debate. The structural approach of linking human rights to global issues of economic and social development and the root causes of human rights violations has historically been advanced by third world countries, while western states have repeatedly expressed their reservations and rejections too.⁷⁶ Consequently, the only binding international /regional human rights treaty which has recognized the right to development is the African Charter on Human and Peoples' Rights (AfCHPR). Still, there are many who question in what respects the right to development adds to the existing body of human right.⁷⁷

On the contrary, there are authorities who contend that the right to development is a fully-fledged right already recognized under existing international human rights law, despite concerns about its content and status as contended by the United States and some other countries. In this regard, the former President Singh of the International Court of Justice has remarked:

*"The right to development is a recognized principle of international law beyond dispute. It is founded on the principles of the U.N. Charter, namely sovereign equality of States, non-discrimination, the principle of inter-dependence and of international co-operation."*⁷⁸

Singh's statement doesn't, however, appear convincing. It doesn't tell how the very general and high-level principles of sovereign equality, non-discrimination, and international cooperation enshrined in the UN Charter can beyond dispute be interpreted as guaranteeing a human right to development. He seems to view the right to development in the context of North-South dynamics rather than as an individual human right. His view seems to imply that inequities in political and economic relationships

between nation states interfere with efforts to attain and ensure the right to development of a nation.

There are also arguments that are advanced around declarations that have received international consensus. According to these arguments, instruments such as the Vienna, Rio, and Copenhagen declarations adopted by international consensus of states reflect legally binding positions.⁷⁹ That these declarations possess significant normative weight which can be evidenced by the very detailed written interpretative statements provided by various states, according to this line of argument.⁸⁰ This argument still seems to be incomplete and inconclusive. It must be noted that even though all of those instruments have been endorsed by a unanimous vote of all states represented, there still lacks unanimity on the very concept of the right to development.

This can be evidenced by looking at the position held by the United States in these declarations. The US has attached its reservation to the Rio Declaration and has indisputably made it clear that by joining the consensus on the Rio Declaration, it doesn't change its long-standing opposition to the so-called 'right to development'.⁸¹ One may argue that since the United States has not attached similar reservations to affirmations of the right to development in the subsequent Vienna Declaration, it has recognized the right to development. In fact, since the drafting of the Vienna Declaration in 1993, the US has made it clear that it recognizes the existence of a right to development, but only insofar as it relates to the right of each individual to develop fully to his/her potential. It does not accept the right to development as a right of states to demand foreign assistance or to qualify protections of civil and political rights under the guise of development problems.⁸² It is, thus patent that the longstanding conceptual divergence on the right to development still subsists.

In general, the right to development as a human right has many times been reported and affirmed in a number of United Nations instruments including General Assembly resolutions, conference, and declarations. Still, the reality is that all those legal instruments that have used the term right to development, save for the AfCHPR, are felt

as soft-laws, and thus would not be considered binding texts in a traditional legal context. What is more, there are still contentions on the conceptual clarity of the subject.

3.4.2.1. The Right to Development: an Inalienable Human Right

The evolution of human rights evidences that concept is always progressing. In the words of Allan Rose, " the existing human rights are not the creations of a particular point in time, rather they relate to our general view of the relationship between the individual, the group, society and nature."⁸³ Thus, the issue of what human rights are and how they operate constitute part and parcel of human history past and present.⁸⁴ As we have already discussed in relation to the forerunning topics, the increased recognition of human rights occupies a prominent place in the history of modern civilization. The liberal intellectual ferment since the late 17th century has provided the rationale for revolutionary agitations and civil movements. As a result, the term human rights have come into everyday language, especially after World War II. But by no means are issues in human right discourse fully settled. Even today, there are many ongoing human rights debates. The right to development represents one of emerging human rights with respect to which conceptual consensus has not yet been reached.

Nevertheless, after a lengthy and particularly difficult preparation, the UN General Assembly adopted a Declaration on the Right to Development in 1986, without consensus though. The declaration on the right to development adopted after a long study and controversy in its opening articles confirms that:

"The right to development is an *inalienable human right* (emphasis mine) 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".

The only dissenting vote came from the world's superpower, the USA that consistently expressed its differed view on the very notion of the right to development. The government of USA defines the right to development from liberalistic point of view. A

US representative once remarked that the United States "views the right to development as the right of every individual to have the opportunity to develop his/her full potential as a human being in all areas of human endeavor."⁸⁵ Later at the Vienna Conference the USA has come to fully recognize the right to development as an inalienable and universal human right whereby the human person is the central subject of development.⁸⁶ Still, it firmly objects the idea of regulating state behavior to conform to the right to development or any elements thereof.⁸⁷ The United States attaches greater emphasis to the liberty of citizens in their endeavor to development, and considers that the role of the state to be that of a facilitator, since repressive state, which exercises tyrannical control of the individual, can't adequately facilitate the achievement of this goal. This is apparent from the Remarks of George Moose that goes:

*" The protection of basic civil and political rights is indispensable to sustainable growth. A government that seeks growth and development without respecting these core rights is unlikely to succeed for very long. Development cannot precede human rights; it can only proceed in harmony with human rights...individual liberty unlocks the creative and entrepreneurial spirit; people devote their energy and genius when they place confidence in the laws. Any government that hopes to achieve sustainable, long-term growth, therefore, must nurture the atmosphere in which individual talents can flourish."*⁸⁸

The USA thus accepts the notion that the right to development is a human right only in a qualified manner. It views the role of individual initiatives as invaluable resources in promoting economic and social development.⁸⁹ It doesn't at all accept the right to development as a legal entitlement of states to be exacted from the international community. Interestingly enough, the USA subscribes to the imperatives of international cooperation and participation as key factors to ensure development. This has been once again made clear by its representative who pledged:

"...the commitment of the United States to the practical agenda of development will continue undiminished. We will continue to subscribe

*fully to the principles affirmed in the Vienna Declaration regarding the obligation of states to cooperate with each other in ensuring development."*⁹⁰

3.4.2.2. The Pedigree of the Declaration on the Right to Development

In 1979, the Academy of international law in The Hague organized a workshop that had as its main theme of discussion 'the right to development'.⁹¹ That academic consideration and subsequent recommendations inspired the undertaking of further studies and finally the UN Human Rights Commission passed as resolution emphasizing the need to adopt national and international measure in order for the full promotion and protection of human rights of individuals and peoples and to fully guarantee the right to work, education, health, proper nourishment and such other key human rights.⁹² From that time on, preparations for the adoption of an international instrument on the right to development continued and finally few countries came up with their own versions of the right to development. For the then Soviet Union, the right to development was an inalienable right of, not individuals, but nations. The Soviet Union argued that the right to development shouldn't be seen as an abstract individual right.⁹³ By contrast, the United States stressed on two basic issues: that any human right was to be exercised by human beings, not states, and that economic rights unlike civil and political rights didn't lend themselves to legally binding and enforceable commitment.⁹⁴

When the drafting group was established in 1981, the U.S. government, under the Reagan Administration, made it clear to the other members that the any declaration on the right to development should not be used as a means of resuscitating new international economic order. Then United States warned that it would not allow the declaration to create any entitlement to a transfer of resources by underscoring that aid was a matter of sovereign decision of donor countries and could not be subject to binding rules under the guise of advancing every human being's right to development.⁹⁵

3.4.3. The Politics of the Right to Development

The whole regime of human rights has never been immune from political and ideological influences. The political discourse of the various working groups on the right to development is often characterized by predictable posturing of political positions rather than practical dialogue on its implementation.⁹⁶ From the beginning, the concept of the right to development has been controversial. Still, its precise meaning and scope can't be precisely defined. According to Stephen Marks, the right to development emerged from the legitimate preoccupation of newly independent African and some Asian countries with problems of development and has a lot to do with the East-West political dialogue.⁹⁷ On the other hand, it is praised by some as core of the immense contributions Africa has made to world understanding of emerging human rights.⁹⁸ It is true that efforts to use the U.N. to advance the idea of a New International Economic Order (NIEO) had emboldened Third World countries. But the challenge to the prevailing order favoring Western industrialized countries generated a reaction that ranged from cautious support among Western European delegations to outright rejection of the idea of a human right to development as the case of the United States.⁹⁹

To sum up, the politicization of the right to development discussion in the UN has persisted throughout the various stages. Because, it appears that, right to development, in the sense frequently put by developing countries, involves obligations of the international community to create better conditions for development mainly through reducing inequities of international trade, the negative impacts of globalization, differential access to technology, the crushing debt burden, and similar factors they see as detrimental to the enjoyment of human rights and development.¹⁰⁰ That seems where the concrete dilemma lies. Resources being always these measures can't naturally please all states, developed and underdeveloped. Still, many observers believe that the single most important objective of the proponents of the right to development is to establish an obligation on the part of wealthier countries to provide financial and other types of assistance to poorer countries.¹⁰¹

3.4.4. The Political Economy of the Right to Development

In the forgoing discussions, we have seen that there still subsists a political and ideological tension mainly between the underdeveloped world and their advanced counterparts. The intellectual and political struggles made chiefly in the past three centuries have definitely brought the world to a new level of consciousness that is becoming more or less universal. In the context of Africa, the globalization of human rights began with the struggle for self-determination movements against colonialism.¹⁰² Since the conclusion of the Second World War, groundbreaking changes have occurred to change the image of the world. The collapse of western colonial system that prevailed for centuries over 80% of the surface of the earth is perhaps the greatest of achievements. Precisely because it resulted in enabling those states previously under foreign domination to become active members of the community of nations and assert their struggle on a going on basis. The advancement of the right to development can be characterized as a continuum of the struggle towards the formulation of a new politico-economic order.¹⁰³

The claim chiefly advanced is that, although almost all states of the world are enjoying relative political freedom, the vestiges of alien domination and neocolonialist that is manifested in various shapes and forms have continued to be a greatest obstacle to the full emancipation and progress of states. Inhabitants of many countries of the world, especially of Africa continue to live in a state of underdevelopment and backwardness. In economic terms, developing countries, which account for 70% of the world population, surprisingly enough account for only 30% of the world's income.¹⁰⁴ While it is technological progress that catalyzes all spheres of development, its benefits are not, very unfortunately, shared equitably by all members of the international community. Underdeveloped countries are, thus without such solid potential for development. Hence, the quest for development assistance.

In general, according to proponents of the right to development, the roots of chronic underdevelopment that characterizes poor countries lie in the profound disparities between the prevailing system of international political and economic systems.¹⁰⁵ The squandering of vast human and material resources, the inward looking policies pursued

by the advanced countries, financial and monetary crisis facing poor countries, debt burden, lack of technology, adverse trading conditions, and variety of other factors are contributing towards aggravating the international economic crisis to the disadvantage of poor countries.¹⁰⁶

Indisputably, the grossly inequitable global political economy is marginalizing the vast majority of human kind who still are condemned to live in a state of starvation, poverty and dehumanization, while the rich play in the carnival of affluence. In recognition of this, third world countries are advancing a new paradigm of thought. In order to ameliorate the crisis brought about, mainly due to the north-south political and economic disparity, a normative philosophy that is more or less world encompassing and is widely considered to have the potential to address the imperatives of global distributive justice has been put on the addenda of human rights.¹⁰⁷ The new normative philosophy emphasizes global solidarity and common good, as opposed to power, self-help, competition, and so on.¹⁰⁸

Perhaps the most prominent human right version of such normative philosophy is the right to development. Yet, while it is fully possible to give concrete legal relevance to the right to development, which encompasses a comprehensive realization of economic, social, cultural, political and other human rights, it can't be overlooked that there are many quarters ideological and political aversions towards such an approach.¹⁰⁹ Taking the right to development, which basically concerns with the protection of the vulnerable groups, such as the poor, seriously implies at the same time a commitment to social integration, solidarity and equality, including but not limited to addressing the question of income distribution.¹¹⁰

As a result, the right to development has not as yet won much support from the leading world political and economic powers. It is even considered by some as unjustified political demand of poor countries.¹¹¹ The major centers of political and economic powers have continued to pursue their own ways as far as the right to development is concerned. In spite of all the advancement and the unprecedented progressive development witnessed in the recognition and protection of human rights in general, one

has to recognize that the search for a more equitable global system, in which the realization of the right to development centers is likely to continue to be one of the most enduring issues of our world.

3.5. The Right to Development: The Right and the Reality

As shown above, the international human right framework supplies a solid ground for the erecting the human right to development. Accordingly, states are expressing rhetorical support for this right but neglect its basic precepts in development practice. The fact that the right to development has not yet been transformed into a binding covenant, save the case of Africa, amply prove that the rhetoric and the reality are still at variance. Paradoxically, the United States opposes or is at best reluctant to recognize development as an international human right. This has clearly been demonstrated by its being the only nation to vote against the 1986 Declaration on the Right to Development.

Some argue that special protection may be fine, but that is not feasible through the concept of rights.¹¹² It is true that economic, social and cultural rights are more of goals, policies, and programs, as compared to civil and political rights. On the other extreme, there are claims that hold the view that fundamental needs shouldn't be at the mercy of changing governmental policies and programs; hence, if rights are to have a positive function, they must be taken seriously.¹¹³

The international community has emphasized the interdependence and indivisibility of all human rights by adopting the UDHR that in a single document embraced virtually all human rights. Since then, the indivisibility and interdependence of all human rights has been reaffirmed time and again. The most recent and very conspicuous one in this regard is the 1993 Vienna Declaration and Program of Action that underscored on the unity of the normative framework of human rights as:

" All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While significance of national and particularities of various historical, cultural and religious background must be born in mind, it is the duty of states regardless of their political, economic, and

*cultural systems, to promote and protect all human rights and fundamental freedoms"*¹¹⁴

The importance of implementing of the right to development has been a constant refrain of many other resolutions, statements by delegations, and conclusions of working groups too. When it comes to setting priorities and allocating resources, however, this goal has been conspicuously absent in the policies and practice at the national and international levels. It is apparent that the reference to the right to development in these foreign policy positions, however, has little impact on national development policy and practice.

At the regional level too, both donor and recipient countries have policies for development cooperation without reference to the right to development. It is evident that even relief assistance during emergency situations are made on the basis of individual political, diplomatic and other extra legal considerations, and not out a genuine sense of international legal obligations. In theory, priority has been given to Africa in the U.N. through the United Nations New Agenda for the Development of Africa in the 1990s (UN-NADAF) and the African States' New Partnership for Africa's Development (NEPAD), also without an explicit reference to the right to development. The practice continues to be different. There is no guarantee that the harsh realities of underdevelopment in world's poor countries, such as Ethiopia will not continue any longer.

3.6. Ongoing Barriers in the Realization of the Right to Development

At the core of human rights concerns lies the problem of implementation. This problem appears particularly invincible when it comes to the right to development. Clearly because, where as the right to development encompasses all other human rights and fundamental freedoms, it centers in the fulfillment of economic, social, and political conditions that warrant the full realization of all human rights. That is perfectly why it is often claimed that the full implementation of human right to development represents the indivisibility and interdependence of all human rights.¹⁰⁵ Yet, the world is still very far from witnessing the fulfillment of such enabling conditions. The reality is that many

people of the world are still experiencing extremely worrisome mass poverty, starvation, human rights violations, etc, why? Let's now see a couple of ongoing challenges to the realization of the right to development.

3.6.1. Dualistic Views of Human Rights

Even though the right to development has a necessary link with all human rights, it finds its relevance particularly from the perspective of economic, social and cultural rights. It would be, therefore, worthwhile at this juncture to examine the attitude of the world community towards and the consequent place of economic, social and cultural rights for that inevitably has key bearing on the realization of the right to development.

Economic, social and cultural rights continue to be viewed with suspicion, caution and skepticism, surrounded, as it were, with a hazy cloud of doubt and treated with an air of triviality. Although international law unreservedly treats this category of rights as equal to civil and political rights, the latter group continues to receive far greater attention. Where as the so-called first generation rights are more laudable and have the full support of all, there is still much ambivalence as regards economic, social and cultural rights.

The initial labeling of rights into two separate generations human rights itself is suggestive of the fact that a varying degree of international concern is attached to them. Civil and political rights were considered to be 'absolute' and 'immediate', where as their economic, social and cultural counterparts were viewed as 'programmatic' to be realized progressively.¹⁰⁶ The direct outgrowth of such assumption is that civil and political rights are justiceable, i.e. can easily and immediately be applied by courts of law, while economic, social and cultural rights are of a more political and governance nature, and hence not susceptible to judicial determination.¹¹⁷

The major justification for the underdeveloped justiceability of international treaties on economic, social cultural rights include the very general, programmatic nature of the treaty itself and the weak monitoring mechanism under the treaties in question.¹¹⁸ True, the treaty is formulated in a broader and open-ended way. But that in no way can fully account for the preeminence given for civil and political rights over social economic and cultural ones. More realistically, such divergent attitude towards the two sets of rights is

rather rooted in the liberal culture, which holds social and economic rights as the consequence of free exercise of civil and political rights.¹¹⁹

It is also sometimes claimed that the implementation of civil and political rights is free of charge to the state while the realization of economic, social and cultural rights is costly since it obliges the state to provide opportunities to individuals.¹²⁰ Much of the argument therefore, revolves around the perceived role of the state. It basically centers on the issue of differences in the state obligation arising from the two sets of human rights. Since the main emphasis with regard to civil rights is on freedom from state interference, all it takes a state is a passive obligation of noninterference, it is argued.¹²¹ By contrast, a central element of in regard to social and economic rights is the claim on the state for protection and assistance. As a result, civil and political are lightly viewed as incurring only passive obligation of abstention, while their economic, social and cultural rights require active and progressive measures by the state.¹²²

In domestic plane too, civil and political rights have received extensive recognition and better protection through their inclusion as justiceable rights in the constitutions of various countries, where as the direct entrenchment of economic, social and cultural rights as justiceable rights in a countries constitution is still considered as something novel.¹²³ In the academic arena too, views are held that the inclusion of economic, social and cultural rights as justiceable rights is inappropriate.¹²⁴ One of the chief reasons often forwarded is that including such rights as justiceable rights in a country's constitution entails the empowerment of courts to order the state to undertake extensive positive programs that may requires a huge resource commitment, which runs counter to the doctrine of separation of powers.¹²⁵ According to this interpretation, social policy, budgetary allocation, and such similar state activities are the exclusive domain of the legislature, which is directly accountable to the electorate. It is also argued that judges are not economists or public policy experts to order or evaluate the most effective policy measure taken for the realization of those second generation rights.¹²⁶

A very close scrutiny of the above arguments advanced to magnify the distinction between first and second-generation rights, by emphasizing the incapability of the latter to be invoked before courts, however, appears inconclusive, incomplete and inconsistent.

To begin with, it should be mentioned that none of the two sets of rights entail a purely negative obligation or a purely positive obligation on a state. Indeed, the assumption that the implementation of civil and political rights is free of charge, in the sense that it requires just a passive abstention on the part of the state is erroneous. If the premise is incorrect, then we have more than one good reason to doubt the assumption that negative obligations should be implemented right away because they don't have budgetary consequence. It is incorrect because it ignores the expensive nature of establishing and maintaining justice. The so called negative rights too, thus require the state to undertake affirmative measures that may range from education the public, which is an essential precondition for the effective enjoyment of civil and political rights, to an efficient administration of justice should such rights be violated.¹²⁷ Many civil and political rights such as the freedom of speech and its permissive limitations, fair trial, etc also involve questions of social policy and have budgetary implications.¹²⁸ Thus, all human rights have social policy implications.

In general, even those human rights traditionally considered as negative in nature are subject to progressive realization since building up of necessary mechanisms and making the necessary resource available may take time. On the contrary, it must be noted that economic, social and cultural rights too impose a negative obligations of the state. For example, a citizen's right to private property imposes on the state the duty to refraining from unjustified forced eviction.¹²⁹ The other difficulty relates to the inconsistency exhibited in the effort to make a clear-cut distinction between the different human rights. In the European system, for example, the right to education and cultural rights are considered in conjunction with civil and political rights, as opposed to economic, social and cultural rights. The other recent development worth mentioning in this connection is the reintegration of the two sets of human rights in the Convention on the Rights of the Child, adopted in 1989.¹³⁰ The adoption of this convention encompassing both generations of rights is suggestive of the fact that the two sets of rights can be integrated.

In general, the traditional liberal conception of bill of rights designed to protect individual liberties from unjustified state power seem to underlie most of the arguments in favor of a more attention to civil and political rights. It must be admitted that there are some

differences between the two sets of rights. True, civil and political rights operate primarily as negative restraints on the powers of the state, where as economic, social and cultural rights of citizens impose on the state the obligation to create opportunities and conditions necessary for the effective realization of same. Differences can't be ruled out even as between rights within the same category, like between civil and political rights. In terms of their evolution, for instance, political rights were accepted as human rights much later than some of the civil rights.¹³¹ There are differences in other respects as well.

Nonetheless, it must also be noted that the adoption of a rigid classification between the different human rights is generally inconsistent with the notion of the indivisibility and interdependence of human rights, as repeatedly endorsed by the world community. It is also contradictory to the whole effort of human rights work. To use the provocative statement of Asbjorn Eide, "what permanent achievements is there in saving people from torture, only to find them they are killed by famine or disease that could have been prevented?"¹³²

To sum up, the assertion that the obligation of the state to ensure the enjoyment of civil and political rights is free of charge, but economic and social rights require the allocation of resources is a gross oversimplification. As far as justiceability is concerned, even those rights that when taken at their highest and most general level can't be made justiceable can become justiceable when broken down into their more specific vital components. Finally, it must be placed firmly in mind that even though human rights when seen in general appear to impose three types or levels of obligations: the obligation to respect, protect and provide or fulfill, there exists an enormous degree of interplay in between.

3.6.2. Deficient Political Will

The issues of third generation rights in general and the right to development in particular are both tantalizing and of fundamental importance to human kind. No doubt, that the realization of the right to development will have immense contribution to the effective enjoyment of all other human rights. Yet, it should also be admitted that the precise meaning of the right and the corresponding obligation it imposes is not crystal clear. It is some times claimed, for example, that all human rights are universal, indivisible,

interdependent and interconnected. The living paradox, however, is that the international community has never accorded a proportional degree of attention to the different sets of human rights. As far as the right to development is concerned, it has been declared as an inalienable and independent human right, which at the same time constitutes a precondition for an effective enjoyment of all other human rights. Yet, the precise content of this right and the corollary obligation of states are still contentious, and thus its realization greatly depends on political will of states.

Even though the traditional ideological battle whereby the United States used to characterize the right to development as a rhetorical exercise designed to enable the Eastern European countries and the third World to distort the issue of human rights by affirming the equal importance of economic, social and cultural rights with civil and political rights and by linking human rights in general to its "utopian" aspirations for a new international economic order¹³³ has, following the conclusion of the cold war, left way to principles of international cooperation and solidarity, there still lacks genuine political will and commitment in converting the rhetoric into reality.

Examining patterns of public spending, those contained in the 1991 Human Development Report of the United Nations Development Program (UNDP), for instance, reveals quite convincingly that few States have attained satisfactory or high levels of expenditure devoted to human development, and thus to the achievement of economic, social and cultural rights. The report emphatically underscored that "lack of political commitment, not of financial resources, is often the real cause of human neglect".¹³⁴ No doubt, such lack of political will, especially on the part of economically developed countries to take the right to development seriously is a huge barrier. Precisely because while financial resource and technological colonialism are points of genuine concern in the modern world, an international order where the right to development can be meaningfully realized can only be built upon the political will of nations.

It must be accentuated that the declaration on the right to development requires states not only to co-operate with each other in ensuring development and eliminating obstacles to development, but also to fulfill their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual

interest and co-operation.¹³⁵ It is highly doubtful, however, that all States are prepared to promote a new international economic order. According to Milan Bulajic, the very mention of a new international economic order as an economic and legal term stirs discontent among some developed nations.¹³⁶ Some writers carry the argument to its extreme that the claims for political and economic participation of the majority of the world and the redistribution of the world's wealth are simply hypocritical propaganda propagated by the ruling class that coined the UDHR at the moment in history when they wanted to rally the world against fascism and preserve their privileges.¹³⁷ In any case, it seems amply clear that the creation of an equitable international economic order will have to endure a very long wait, if at all it is achievable.

3.7. The Right to Development in the FDRE Constitution

The FDRE Constitution does in its article 43 (1) recognize that the people of Ethiopia as a whole, and each nation, nationality and people of Ethiopia in particular have the right to an improved standard of living and to sustainable development. The right to development is, therefore, placed as a democratic right, not a human right under the FDRE Constitution. Consequently, our constitution doesn't directly recognize the right to development as an inalienable human right. What is more, the right to development is put as an open-textured constitutional norm in our constitution in a manner that doesn't confer a specific human right on individuals. Under our constitution, the Ethiopian people in general, and each nation and nationality in particular, and not individuals, are the subjects of the right to development.

The right to development of individual nationals has rather been articulated in terms of enhancing their participation and capacity in national development programs. Like the 1986 declaration on the right to development, Article 43(2) of the FDRE Constitution emphasizes the importance of participation, and guarantees that nationals shall be consulted in the formulation of policies and development projects.¹³⁸ Article 43(4) of the Constitution further declares that development activities shall aim at enhancing the capacity of citizens for development and towards meeting their basic needs. Still, this doesn't at all appear to be a justiciable right. Because it is put just as an umbrella concept and program rather than as a specific human right.

Yet, the fact that the Constitution doesn't directly recognize the right to development as an inalienable human right doesn't mean that the right is totally nonexistent in our legal system. As has already been tried to make it clear, the notion of the human right of every woman, man, youth and child to development includes, but not limited to the following indivisible, interconnected and interdependent human rights: the right to economic, political, social, and cultural development, which results in a fair distribution of benefits to individuals and peoples throughout a society, and which allows for the realization of all other human rights; the right to full and equal participation in developmental planning and decision-making, and in shaping all policies affecting one's community and living conditions, at the local, national levels; the human right to an adequate standard of living, including access to safe food, water, and housing; the right to a safe and healthy environment; the right to the highest attainable standard of health; the right to equality of opportunities, and so on. Most of these right are embodied in binding international conventions, such as the ICCPR, ICESCR, and the Convention on the Rights of the Child, which have been ratified by Ethiopia, and therefore have been incorporated into our legal system pursuant to article 13(2) of the Constitution.

3.8. The Development Dilemma in Ethiopia

In purely material terms, development implies an adequate living standard, which in turn presupposes the fulfillment of conditions necessary for a living above the poverty line.¹³⁹ This, according to the World Bank, comprises of two very related components: the ability to afford for the minimum standard of nutrition and other elementary necessities of life and additional amount to defray cost of participation in every day life in a given society.¹⁴⁰ But the notion of the right to development, as discussed above, is never confined to economic development alone. It rather represents an all rounded improvement with respect to all aspects of human life, including but by no means limited to economic, social, cultural, and political development. It is, thus a comprehensive process in the economic, social, cultural and political activities, which aims at the constant improvement of the well being of the entire population and of all individuals on the basis of their active, free and meaningful participation, and in the fair distribution of benefits resulting therefrom.¹⁴¹

By all standards, Ethiopia is one of the world's underdeveloped states. No doubt that the perennial poverty in Ethiopia has massively impacted upon the overall development of our society. Precisely because poverty can mean more than just lack of what is necessary for material well being. It can also mean the denial of opportunities and choices basic to human development; such as freedom, dignity, self-esteem, the right to enjoy a descent standard of life, a healthy and creative life, just to name only the few. It is from this perspective that we need to reevaluate and conceptualize the persistent underdevelopment in Ethiopia.

Many don't agree that the problem of development in Ethiopia is due to scarcity of natural resources (if at all scarcity is a cause for any country's underdevelopment). In many ways, it can be argued that the popular diagnosis of the root of political and economic underdevelopment in Ethiopia is the fact of pervasive corruption, especially in the political arena that is reinforced by extreme poverty. Incidentally, the preparation of this work coincided with the 2005 National Election in Ethiopia. In the run for election, a widespread public gossip goes, a contending political party (s) tried to purchase votes just for 20 or 30 Birr, a free lunch, etc. One has the liberty to doubt the credibility of such accusations. Still, it shows the possibility that individuals under extreme poverty may will to sell their votes, which is the expression of their sovereignty, just for a one-time meal. Thus, while economic problems can't justify the violation of civil, political, social and cultural rights, full realization of all of virtually all human rights clearly requires the eradication of poverty.

Generally, poverty and corruption reinforce each other to deny opportunities and choices basic to human development. The enjoyment of human rights and fundamental freedoms greatly depend on the fulfillment elementary necessities of life. The crux of the matter is that human dignity, self-esteem, and other basic human rights, which underpin the right to development, lose their meaning and force in the face of extreme poverty.

CHAPTER 4: CORRUPTION- A MAJOR CHALLENGE TO DEVELOPMENT AND IMPERATIVES OF ANTICORRUPTION MEASURES

4.1.General Remark:

From the forgoing discussions, we have seen that there is no binding international document on the right to development, save the AfCHPR. Thus, legally speaking, whether the international community has a sufficiently definite obligation to ensure the realization of the right to development is open to debate. Even if formal international obligation is undertaken, the problem of ensuring that governments establish appropriate arrangements to discharge their obligations will pose yet another major problem. There is no international monitoring mechanism with regard to the right to development. What is more, there is no international consensus on what the human right to development exactly means. The highly comprehensive nature of this important right compounded by the lack of political will seems to have prevented consensus on the precise content and nature of the right to development. Consequently, the full realization of the right to development at an international level will have to endure a seemingly endless wait until a genuine universal political will prevails, especially on the part of the advanced nations.

But this by no means suggests that the implementation of the right to development at all levels shall wait until the existence of the right is taken seriously by all states developed or otherwise. There are a number of measures states can undertake at domestic levels, especially in terms of eliminating obstacles to development, as article 6(3) of the declaration it self requires. After all it is states that owe the primary responsibility in ensuring the realization of the right to development.¹ Thus, while at the same time drawing upon international linkages of solidarity and cooperation, appropriate strategies within domestic contexts need to be articulated. Indeed, much of the job in the realization of the right to development at least presently can be done at domestic levels. It should be, therefore, stressed that domestic action is an imperative.

On the other hand, the world has come to a consensus or nearly a consensus that corruption is becoming a formidable challenge to development. As we have seen under chapter two above, corruptions is ruinous to all aspects of human development. It impugns civil, political, economic, social and cultural rights of the people. It ruins popular sovereignty. Surely, thus corruption hinders the realization of the right to development, and therefore of all sets of human rights. It is, therefore, one of the major obstacles of development, the elimination of which is envisaged under art 6(3) of the declaration on the right to development. Inversely, therefore, elimination of corruption, which is one of the invincible obstacles to development, immensely contributes to the realization of the right to development. It is with this understanding that we examine the manifold and profound correlation between corruption and issues of development in this chapter.

4.2. Linking Corruption and the Right to Development

In examining the implication of corruption in development, we must take a broad view of the concept of development. Because that is what the right to development as enshrined in the declaration represents. The notion of evolution and change, growth, advancement and progress, whether morally, economically, politically, culturally or in terms of the improvement of the quality of life and in the general conditions of human life must be taken in aggregate when assessing development.

Accordingly, the link between corruption and development should be seen in the context of the fulfillment of basic needs and socio-economic justice. Ensuring the right to development as a comprehensive process requires enhancing the well being of the entire population, ensuring a fair distribution of opportunities, economic, political, social, and cultural rights. This in turn requires ensuring the full participation of individuals in the political, social and economic life, and so on.

Under chapter two, we have seen that corruption attacks the fundamental values of human dignity and political equality of the people and hence there is a pressing need to formulate policies and strategies to effectively combat it. True, as has already been discussed under 2.5 above, corruption has a pervasive effect on all aspects of life. The issue here is but on its impact on human rights, and particularly on the right to

development. The reason is that such structural-developmental approach to the study of corruption appears instrumental in providing real solutions to both problems by providing the logical links with the initial question on the conditions for the occurrence or nonoccurrence of corruption.

As has been fairly pointed out in the introductory chapter, corruption affects human rights in general, and constitutes a stubborn challenge to the realization of the right to development. This part of the paper tries to examine the manifold relationship between corruption and development, and inversely the role anticorruption movements may play in the realization of the right to development.

4.2.1. Corruption and Human Rights: A Crucial Link

The human right to development, as has been discussed above, encompasses the rights of every woman, man, youth and child to the following indivisible, interconnected and interdependent human rights: the right to economic, political, social, and cultural development, which results in a fair distribution of benefits to individuals and peoples throughout a society, and which allows for the realization of all other human rights. The human right to full and equal participation in developmental planning and decision-making, and in shaping all policies affecting one's community and living conditions; the human right to an adequate standard of living, including access to safe food, water, and housing; the human right to a safe and healthy environment; the human right to the highest attainable standard of health; the human right to equality of opportunities, and so on. It is in this sense that the right to development has been embodied under our constitution too.² On the other hand, the realization of all these rights can be seriously obstructed by corruption.

As a result, in recognition of the fact that corruption affects virtually all human rights, there have evolved movements towards the recognition of the right to corruption free society as a basic human right. The reason often given is that since the realization of the right to life, dignity, equality, development and other important human rights and values can seriously be hindered by corruption, and the right to a society free of corruption is inherently linked to all human rights, it shall be recognized as a fundamental human right.³

It may also be argued that the right to a corruption-free society originates and flows from the right of a people to exercise permanent sovereignty over their natural resources and wealth, that is, their right to economic self-determination, recognized in the common article, i.e., article 1, of the ICPR and the ICESCR.⁴ Hence it may be argued that the state is in violation of the right to economic self-determination if it transfers in a corrupt manner the ownership of national wealth to select power-holders who happen to be influential in a society at a particular point of time. This violation by the state also results in a situation where people are denied individually and collectively their right to use freely, exploit and dispose of their national wealth in a manner that advances their development.⁵

Be that as it may, empirical studies reveal that there is a profound correlation between high level of human rights abuse and corruption, if not a complete overlap.⁶ Inversely, therefore, efforts against corruption and the promotion of human rights share a lot of things in common. The right to development is no exception to this rule. It needs to be borne in mind, however, that this generalized system of linkage need not be applicable in all situations. Indeed, there are definite points where the two fail to interact. For instance, while the fundamental approach of law in ordinary criminal charges is that the prosecution has to prove the offense built in the charge, as an underpinning element of the principle of presumption of innocence, many anticorruption statutes presume guilt against suspects of corruption, and thus require the suspect to prove her innocence. Thus, there is never an infallible correlation between anticorruption works and human rights protection.

In other respects too, the existence of massive correlation between corruption and human rights abuse shall not give rise to a presumption that there is absolute interaction between the two. There are a number of variables that determine each, and hence the most corrupt state may not necessarily be a place where human rights are least respected. For example, according to the 2000 corruption perception index produced by TI, Singapore was found relatively corruption free country, (largely as the result of systematic anti-corruption measures initiated from the top tier of the administration), while it is not a country that is viewed as progressive as far as human rights protection is concerned.

Inversely, Italy, a country with good human rights records, was found to have been exposed to systemic corruption.⁷

4.2.2. Corruption as a Major Obstacle in the Path of Development

In chapter 2 above, we have seen at a fair detail that corruption has manifold and complex impact on the overall development of a nation. It severely affects economic growth, social cohesiveness, political stability, cultural development, and even may pose a danger on the very survival of a nation. As we have already discussed this issue above, we will not go to details again here. Yet, for a clearer discernment of the correlation between corruption and development, it is worthwhile to consider some empirical evidences.

According to studies by the World Bank, countries with widespread corruption may have economic growth rates of between 0.5 per cent and 1 per cent less than would otherwise be the case.⁸ What is more, while development issues mainly center on the improvement of conditions particularly for the most vulnerable groups, such as the poor, corruption bears with special cruelty upon the most poor. The outgoing World Bank President, James Wolfensohn once remarked that, “the impact of corruptions is felt most by the poorest levels of society, for example in the distribution of seeds or medicines, in street and market trading, at police checkpoints and in many other areas of activity.”⁹ Further consolidating this view, UN Secretary General puts:

“Corruption hurts the poor disproportionately—by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid.”¹⁰

Clearly, therefore, the effect of corruption runs counter to the efforts made to ameliorate the situations of the most vulnerable groups in the society, and thus to development. Sophisticated analysis is not required to discern the impact of corruption on development. First and foremost, the realization of the right to development requires the proper utilization of scarce resources. But corruption, especially in the case of Africa, means that huge public resources that should have immensely improved socio-economic conditions

have routinely strayed out to fatten the bank accounts of officials in offshore banks. Estimates have suggested that \$20 Billion is held in the private Swiss bank in the name of African leaders alone¹¹! This money is taken away from countries in which most basic rights to food, health, education, and security are at their poorest level or at times nonexistent altogether.

If one has to further analyze some of the effects that corruption has on development, the first thing one notices is that it increases the cost of goods and services. The corrupt decision-maker may also well be tempted to accept a substandard quality of all kinds of goods and services, including those that are meant to meet real development priorities of a country, like road-building, electricity, telecommunication. Corruption between government departments and contractors may result in corner cutting with regard to agreed standards of quality so that the savings made may be shared out between the two parties. At their very worst, the disastrous effects of corruption mean that the conception of a project and other state activities, and ultimately their very choice, are determined by corruption, not by their benefit to the people.

On a national scale, thus corruption represents one of the most stubborn challenges of development. Though it is generally a drain on development, its impact is particularly decisive in poor countries, like Ethiopia, due to the delicacy of their economy. It diverts scarce resources from being used to contribute towards easing, if not removing, the multitudes of social and economic ills in the country.¹² That is exactly why corruption is commonly described, as a "theft from a nation". As this accurate description is self-explanatory, it needs no further comment here.

The human right to development of individuals and peoples, as already pointed out above, includes their right to determine freely their political status, to freely pursue their economic, social and cultural development, and to have full and complete sovereignty over all their natural wealth and resources.¹³ Corruption clearly runs counter to all of these rights. Nevertheless, there are cynic claims that corruption; especially petty corruption, is a human rights friendly act. Putting all ethical aspects aside, it is asserted that, "little corruption oils the wheels of rusty human rights,"¹⁴ as it improves the human rights situation of a poor public official who has to endure an endless wait for a healthier

and equitable economy. There are even claims that contend corruption oils the wheels of progress and enables development to take place.

According to this view, those perpetrating petty corruption take bribes as a result of their meager incomes and low standard of living, and it should be recognized that the bribe they take helps them improve their economic situations, hence is pro-development and welfare. That is, as what they receive as bribe enables them to feed their large pool of dependents, covers the education and medical costs of their family members, it should be acknowledged that such petty corruption helps to ensure welfare of citizens. A certain authoritative governmental study on corruption in Africa has tended to acknowledge that public officials in Africa perpetrate petty corruption as a result of their meager incomes and low standard of living, and thus bribes can help them redress their social and economic problems.¹⁵

Such tendencies have further led to a presumption that since corruption is intrinsically linked to underdevelopment, corruption can never be stamped out until a country develops.¹⁶ The idea is that as long as a person's normal income does not provide him with a decent living, the door will always be open to bribes. But, a clearer understanding of the nature of corruption reveals that such assertions are fallacious and inconclusive. First, bribe is just one among the very many varieties of corrupt act. Second, necessity is not the whole cause of corruption. After all, political corruption, and even grand economic corruptions, which is by far ruinous to development, can't be attributed to low pay and necessity to have a descent living. Therefore, the fight against corruption and development shall not be viewed as alternate undertakings, in which one has to wait until the other is successfully accomplished. Indeed, the effects of corruption on all aspects of development, as discussed under 2.5 above, suggest that combating corruption without delay is an imperative for all countries; particularly poor ones.

In fact, it must be admitted that the general linkage often advanced that fighting corruption improves human right situations may not be applicable in all situations. Hence, the fight against corruption must not be taken as a synonymous for the struggle to enforce human rights. Yet, in general terms, we can note that corruption kills off the spirit of development. That is precisely why it is often characterized as a major obstacle

in the path of development. In spite of some contrary claims, corruption is definitely one of the major obstacles to progress, and that its effects on development are disastrous.

4.3. Holistic Approach to the Realization of the Right to Development

Clearly both corruption and the problem of development now demand a more nuanced and critical reconsideration of both national policy and international practice in light of globalization and in a manner that transcends the rhetorical smokescreen erected by politicians. Such an approach also means not only a confrontation with some of the traditional arguments against the enforceability and justiciability development rights, as well as the traditional ambivalence of the international community on the problem of corruption, but also gives practical significance to interdependence and indivisibility of all human rights. The consideration of economic and social rights as a critical component of the agenda for 21st century must be taken so seriously.

Once it is recognized that the right to development embraces all human rights and fundamental freedoms, and that all human rights and fundamental freedoms are indivisible and interdependent, the realization of the right to development logically requires that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and at the same time serious obstacles to development, like corruption shall be eliminated. All rounded measures need to be undertaken. In so doing, international cooperation and assistance are both necessary and desirable, especially to corruption ridden poor countries, but are never substitutes for domestic actions. Domestic action is thus an imperative.

4.3.1. Imperatives of Domestic Action

Despite the fairly progressive developments in the realization and protection of human rights in general, and the human right to development in particular at the international level and the existence of an evolving framework on the regional front, the essential point of such activity must be to influence and transform the domestic context.¹⁷ Even though the core problem of all human rights concerned centers on their implementation, there is a total absence of international monitoring mechanisms as far as the so-called third

generation rights, like the right to development are concerned. Thus, the implementation of the right to development requires first and foremost its translation to domestic level.

True, there are more than one good reasons to assert that the existing international law obligates states to pursue policies on the principle of international cooperation, and to contribute to the promotion of the right to development and respect for other human rights. It is not clear, however, what specific impact such general international obligations can make on the policies of individual states. From our own experience, even in extreme situations when we have been exposed to severe famine, and have direly needed help, all the assistance we received, has been derived not on account of the "hard international obligation" felt by donors, but rather on basis of the respective national policies of donor states. International cooperation and solidarity is indeed desirable, but is less feasible. That is what the reality amply proves. International assistance has always been by far less, as writes accurately described as, "enough to addictive but too insufficient cure..."

There is no clearer conception of the precise obligation of states with respect to the realization of the right to development. The future of the right to development will, therefore, depend on the extent to which governments are willing to address the political and practical obstacles to its implementation. It thus appears that it is up to individual governments to take the right to development seriously to shift the discourse away from posturing and towards specific programs and mechanisms that will assist them in meeting their obligations. National governments need to incorporate meaningful approaches to this right in the practice of development.

Without loosing sight of the need for an international cooperation, the primary responsibility of implementing the right to development lies on individual states. This is what 1986 the declaration on the right to development itself requires. States have the duty to formulate national development policies that aim at the constant improvement of the well being of the entire population, to formulate international development policies with a view to facilitating the full realization of the right to development, and to take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights.¹⁸ The declaration attaches greater

emphasis on the vitality of national policies. Indeed, international human rights framework and procedures can never be considered as substitutes for national mechanisms and national measures with the aim to give effect to human rights standards. Whereas the primary responsibility towards the realization of the right to development rests on individual states themselves, very unfortunately, African politicians and even the scholarship absurdly tend to almost fully externalize the problem to colonial legacies and existing inequitable economic realities of the world. Even those notoriously corrupt dictators, such as Mobutu had shamelessly posed as a spokesperson for economic and social development and harped upon the need to redress international imbalances in trade and in economic relations between North and South.¹⁹ Yet, the reality is that the continued domination of such corrupt dictators on the political scene of their respective poor countries effectively impinge upon the civil, political, social, cultural, and all other human rights of their people no less than all external factors can. Mobutu's posturing may be considered as an extreme, but in both hypocrisy and duplicity he by no means stands alone. Indeed, an examination of the history of the political economic of human rights in Africa elicits several reasons to seriously review the situation.²⁰

African leaders have championed the lofty ideals of unity, cooperation, economic developments, human rights and other worthy objectives. Yet, they have failed seriously to work towards their realization primarily because, in the writer's view, the rhetoric for unity, solidarity, and international commitments ignore to consider the need for national unity and genuine leadership commitment, and such other critically decisive factors. Ethiopia is no exception to this. How can foreign aid-donations improve the economic and social human rights to adequate health care, sufficient food, appropriate shelter, adequate living standard and other vital human rights if the state apparatus of the recipient country is filled with corrupt politicians and bureaucrats, if there is no political stability and predictability in a nation?

4.3.2. Anti Corruption Initiatives as a New Dimension of a Comprehensive

Approach to Development

As the struggle to promote human rights and the campaign against corruption share a great deal of common ground; it appears that the two can and should be undertaken in an

integrated manner. In the words of Mette Kjaer, the efforts against corruption and in favor of human rights might be seen as “cogs and wheels that interlock at points, and turn together.”²¹ Indeed, they are inextricably linked and interdependent. For example, both the elimination of corruption and the strengthening of human rights require a strong integrity system.

As pointed out above, corruption is a particularly serious challenge to development. The corollary of this fact is that anticorruption works can contribute to the realization of development rights. In recognition of this, corruption is recently being targeted as a development issue by various stakeholders, like the World Bank. The World Bank attached particular concern for developing countries because corruption undermines economic growth, discourages foreign private investment and reduces the resources available for infrastructure, public services and poverty reduction programs.²² It also reduces the effectiveness of donor-funded projects and weakens public support for such assistance in the industrial countries, and soon.²³ Accordingly, individual states are also advised to take serious measures to combat corruption, which surely is cancerous to development.

What Can Individual States Do? While the primary responsibility of states in the realization of the right to development constitutes in the elimination of obstacles to development, such as corruption and human right violations, both of this problems can at the same time be addressed at domestic levels. The issue now is how can states tackle corruption? Although the situation may appear gloomy, reluctance and ambivalence in combating corruption would only compound the problem. Historically, nations have gone through booms and busts in their economy, socio-political crisis, and fluctuations of lawlessness. Still, each nation is in some stage of development, and attempts to improve the situation inevitable continue and should continue.²⁴

As with many other problems, there are real solutions to the problem of corruption. A multiple of methods can be designed for slowing its pace, fettering its spread and curbing its propagation.²⁵ The causes of corruption are usually complex and rooted in a country's policies, bureaucratic traditions, political development and social history. It is, therefore, through a combination of measures, such as revision of problematic policy and standard,

introduction of policy favorable to the disadvantaged, emphasis on documentation of activities, special recognition of outstanding performance, publicized channels for reporting corrupt activities and devising proper monitoring techniques, and above all genuine political will and commitment that the problem can be curbed.

Through out the history of mankind, personal interests are in constant conflict with collective interests. Consequently, a nation must develop a tradition of accountability in order to reduce the degree of corruption. If politicians and officials are accountable to the citizens, no doubt the corruption can significantly be contained.²⁶ A well known corruption expert, Robert Klitgaard, uses a mathematical equation: $C=M+D-A$, where 'C' stands for corruption, 'M' for monopoly, 'D' for discretion, and 'A' for accountability.²⁷ Stated in very simple terms, to reduce corruption, we have to eliminate or control monopoly power (political, economic, etc), reduce discretion by promoting transparency and the rule of law while increasing accountability standards and practices.

4.4. Anti Corruption Initiatives in the Global Scene

Despite the traditional portrayals of Africa as a continent particularly prone to corruption, the world seems to have come to recognize the global nature of the phenomenon. Since recently, there has been a burgeoning response at both the national and international levels against corruption. A large number of international organizations have the issue on their agenda. The leading global and regional organizations spearheading this movement include: the United Nations, the World Bank, the International Monetary Fund (IMF), the Council of Europe, the European Union (EU), the Organization for Economic Co-operation and Development (OECD), the Global Coalition for Africa (GCA), the UNDP, USAID, and the International Chamber of Commerce (ICC). All of these organizations have articulated anti-corruption policies and strategies, albeit from different angles.²⁸ Since corruption is such a many-sided global phenomenon it is not surprising that so many international organizations and policy initiatives are involved.

The concerted drive at the multilateral level to confront the problem of corruption has given birth to a number of anticorruption legal instruments, which when combined constitute the international legal regime to combat corruption. Such enthusiastic lawmaking activity began with the 1995 European Union Convention on the Protection of

the European Communities' Financial Interests.²⁹ Since then a series of negotiations have been undertaken, and conventions have been adopted.

The UN it self has emphasized that corruption causes reduced investments or even disinvestments, with many long-term effects, including social polarization, lack of respect for the rule of law and human rights, undemocratic practices and diversion of funds intended for development and essential services, and so on.³⁰ Consequently, the General Assembly in its resolution 55/61 of 4 December 2000 recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime (resolution 55/25, annex I) was desirable. After a series of negotiations and deliberations, the UN has ultimately adopted a Convention against corruption on 9 Dec 2003.³¹

The preamble of the Convention reads in part that the States Parties to the convention are concerned about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and rule of law. It also declares that states parties recognize that corruption poses a danger on the political stability and sustainable development of states, and that corruption is no longer a local matter, but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential.³²

The Convention requires member countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under their respective domestic laws. Countries have further agreed to cooperate with one another in every aspect of the fight against corruption, including but not limited to prevention, investigation, and the prosecution of offenders, in gathering and transferring evidence for use in court, and extraditing offenders.³³ Countries are also required to undertake measures, which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption. Also, the convention contains a clause on asset-recovery, and this is considered as a breakthrough, and has stated explicitly as a fundamental principle of the convention.³⁴

No doubt that the Convention is significant because it is the first instrument on corruption. However, it has not gone far enough to deal with the global problem of corruption to the extent one would like it to.³⁵ It is also obvious that the development of such an international convention is not sufficient to make people follow it. Like all other aspects of international law, the outstanding problem comes on the issue of implementation. So once again, states will still have to capitalize on domestic anticorruption measures.

4.5. The Significance and Shortcomings of Anti Corruption Initiatives in Ethiopia

4.5.1. Anticorruption Movements in Ethiopia

Currently, the issue of corruption and its disastrous impacts on economic, social, cultural, and political development endeavors seems to have received an increasing recognition by many governments. The Ethiopian government is not an exception to this fact. Here, the establishment of a specialized government institution, i.e., the Federal Ethics and Anticorruption commission (FEAC), with a mandate of fighting corruption can be considered as a commendable step. The FEAC was established by proclamation number 235/2001 with the principal objectives of, *inter alia*, promoting ethics and anticorruption awareness among citizens, prevention of corruption, detecting, investigating and prosecuting suspects of corrupt acts.

Anticorruption Special Procedure and Rules of Evidence Proclamation No 236/2001 establishes criminal offenses covering a wide range of corrupt acts, including not only bribery and the embezzlement of public funds, but also many other open-ended varieties of acts. The validity of establishing offences in such an open-textured manner can be arguable. Still, even though the above two laws, particularly the procedural one, have been criticized as draconian and unconstitutional, it is worthwhile that the problem of corruption, at least in theory, has been put on the good governance agenda in Ethiopia. Both laws have recently been amended by respectively proclamation No 433/2005 and 434/2005. The fact that some regional states are establishing their own anticorruption agencies can also be taken as start in the right direction.

4.5.2. Shortcomings of Anticorruption Movements in Ethiopia

As stated above, the establishment of an anticorruption agency can be considered as an important step forward in the enduring battle against corruption. Now a formal approach in dealing with corrupt and unethical practices has surfaced. But, definitely that is not sufficient. No slightest doubt, that if anti-corruption efforts are to yield meaningful results and if the epidemic to be put in check, there remains a lot yet to be done. The first step will be to diagnose the problem. As has been stated under 2.6.3 above, there is no adequate scientific information with respect to the prevalence of corruption in Ethiopia. Neither has the government been consistent in its statements regarding the prevalence of this pandemic. The government has on various occasions declared that corruption has eaten deep into the Ethiopian society to a degree that threatens the very survival of the nation. The prime minister himself has severally declared that corruption is becoming number one enemy of Ethiopia.³⁶ On the other hand, the government doesn't accept the worrisome perceptions by TI of corruption in Ethiopia.³⁷ There have been times when the government claimed that corruption is not as such a threat to Ethiopia.

The other fundamental problem is that, though the government initiative and special attention recently given to corruption is quite commendable, it appears a one-sided approach, which global experience shows, is less likely to yield success stories. Because corruption is a complex problem to deal with, the fight against it needs to be a shared responsibility, and thus anti-corruption leadership needs to involve not only the government bodies but also representatives of the private business, civil societies, the independent media, academics, international organizations and other stakeholders.³⁸ Viewed in this light, the government has not created such optimal mix-up in institutional arrangements. The government attitude towards civil societies, the private media, and the private business community needs to be improved.

The Ethiopian government doesn't seem to have won significant public support in its fight against corruption either. There are many who question the government's commitment in fighting corruption. There are individuals who hold the view that government's primary aim in devising anticorruption laws is to swiftly remove opponents within the ruling party from power and effectively put them under house arrest, and not to fight corruption.³⁹ The extraordinarily hasty enactment of the Anti-Corruption Laws, and the chronological sequence of the events, following the split in the ruling party, hastily

arrest of dissidents, the refusal of the police to release on bail, while the court ordered so, and consequently the amendment to the 15 days old proclamation, banning constitutional bail right,⁴⁰ were just few of the facts that clouded on the credibility of governments effort to fight corruption.

There were also situations that tested the government's determination against corruption. A glaring test in this regard is whether the government establishing an anticorruption agency would find the agency's actions acceptable if it were directed against its officials rather than political opponents. In the writer's view, the Ethiopian government has failed this test when in 2002 the Head of the National Electoral Board (whose independence is not beyond a shadow of doubt) was suspected of corruption and was detained, but was quickly released. The FEAC had to justify such an exceptional release. It stated that the suspect was released because he had acknowledged his guilt, while definitely acknowledging one's guilt is not and should not be an excuse, especially in such high profile cases.

Yet another problem is that while such key government agency needs to have significant powers of investigation, prosecution, and deterrence, the FEAC, like all other government bodies has capacity problems. As a Federal Government body, its jurisdiction too is limited federal matters alone. What is more, whereas such anticorruption agencies to effectively function need to be independent of political parties and government leaders, the FEAC lacks that independence.⁴¹ Anticorruption agencies will definitely fail if they are subjected to political direction, and may be used as a weapon to attack critics of the government. Under such situations, their success will greatly depend rather on external factors, particularly on the political commitment of leaders.

The issue of who should run anticorruption agencies is surely very critical. Appointment procedures need to address the issue of whether the proposed mechanism sufficiently insulates the process to ensure that persons of integrity and determination are given the leadership and that they are protected from political pressures while they are in office.⁴² Certainly, handpicked supporters of politicians in power could not only be deployed to intimidate political opponents, but also are likely to lose the battle against corruption.

To be sure, an anticorruption agency typically cannot prosecute chief executives (the prime minister in our case) in office because they usually have immunity under the country's constitution. Impeachment proceedings, even in leading democracies, are generally a matter for the legislature. Accordingly, the framework of an anticorruption agency can be fashioned to enable the agency to provide reports to the legislature, if rule of law is to prevail. Accordingly, the FEAC in order to be seen to have real impact and a leading role in the prevention, investigation, and prosecutions of corrupt acts, its political independence must be ensured.

One may argue that the experience anticorruption agencies in few countries, such as Hong Kong and Botswana, have succeeded while they are accountable to the chief executives in the respective countries. In fact, this was the main argument in the parliamentary deliberation on the amendment of our anticorruption law. But one has also to consider the fact that while many countries have such anticorruption agencies, only a handful of them have succeeded, mainly because of the difference in the prevailing political will and commitment, socio cultural milieu, leadership quality, and many other wide-ranging factors. In this regard, one needs to note the fact that Ethiopia is a country that has never experienced a peaceful transfer of political power.

The very poor and slow democratization process, weak judiciary, absence of vibrant watchdog institutions, private media, and so on, are just few reasons that necessitate a politically independent anticorruption agency in Ethiopia. If our hopes and aspirations of seeing a democratic and prosperous Ethiopia are not to turn out bleak and dimmed. Otherwise, there is also a possibility that anticorruption agencies themselves may degenerate and become a source for extortion and corruption.

4.6. Towards Integrating Anti-Corruption and Development Works

There are glaring examples that demonstrate the fact that the right to development benefits much from anticorruption initiatives. Understandably, anticorruption initiatives aim at, *inter alia*, setting standards that help to ensure equal access to public services, free electoral process, impartial and independent judiciary, and a transparent legal, political, and administrative milieu whereby officials can be held accountable for the wrongs they do commit. Such an environment clearly guarantees the economic and political

sovereignty of the peoples, which are crucial to the realization of the right to development. On the contrary, the existence of strong national human rights institutions greatly helps towards ensuring transparency and accountability. Also, a crucial shared factor is that the implementation of human rights and the prevention of corruption depend greatly on the prevalence of effective check and balance in state apparatus, proactive media, effective public participation, and so on.⁴³

In fact, it is in recognition such profound correlation between corruption and underdevelopment, and conversely the role anticorruption initiatives can play in development, that various anticorruption initiatives have been put on top the agenda of development programs. For example, the World Bank has been financing the fight against corruption, particularly in terms of improving transparency and accountability in government operations, strengthening and improving the financial sector, the judicial system, and in building environments in which people are better able to pursue a broader range of human rights.⁴⁴ No doubt that rooting out corruption, upholding human rights, and adherence to the rule of law are essential conditions for successful development.

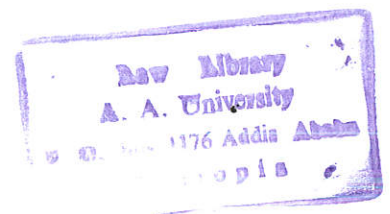
When we come the situation in Ethiopia, we find underdevelopment in its worst form. In spite of the tantalizing array of human and democratic rights enshrined in our constitution, it is a stark truth that an overwhelming majority of Ethiopians are living under a very harsh reality of poverty, and all other forms of underdevelopment. Surely, too much remains to be done if the socio-economic rights recognized under the FDRE Constitutions and International Treatise to which Ethiopia is a party are to be promoted and protected. As stated above, corruption too is widespread in Ethiopia.

The worst part of the story is that corruption and underdevelopment are likely to reinforce and feed each other. Clearly, corruption is one of the causes of poverty, and poverty is in part responsible for its continuation.⁴⁵ If a person cannot earn a descent living for himself and his family, she is more likely to be tempted to earning it by less honest means. Corruption is, thus both a cause and a consequence of underdevelopment. In order to break the pattern we must therefore combat corruption and at the same time intensify the struggle to break the vicious circle of underdevelopment that we are in.

How to Break the Vicious Circle? It may be difficult to give a comprehensive package of solutions to both corruption and underdevelopment. Yet, a cluster of policy measures can be formulated to promote socio-economic rights of the people through fighting corruption. First, the political and economic sovereignty of the people must be genuinely respected. Second, as corruption impugns such popular sovereignty, there shall be no stone unturned in the fight against this epidemic. Yet, the long and enduring battle against corruption can be won if its major causes clearly identified. In fact, identifying causes of corruption is never an easy task. Not only because factors that are responsible for one form of corruption are not usually causes of other forms of corruption, but also a broad set of causes of corruption are intrinsically intertwined with one another, and reinforces each other.

Still, in a very generalized way, the following interconnected factors enable corruption to flourish: absence of rule of law, poor governance, undemocratic electoral process, long period of single party rule and the concomitant monopoly of power by an elite group, poor public participation in governmental affairs, lack of accountability and transparency in government operations, extreme poverty and inequitable distribution of income, weak legal, bureaucratic and judicable system, absence of strong and independent media, and so on. Inversely, therefore, improving all of the above problems can reduce corruption. Thus, corruption can be combated from various frontiers. Indeed, it's through a combination of measures, such as ensuring popular participation, facilitating the democratization process, revision of problematic policy and standards, building a culture of accountability, introduction of policy favorable to the disadvantaged, emphasis on documentation of activities, publicized channels for reporting corrupt activities and devising proper monitoring techniques, and similar measures that corruption can successfully be put in check.

Again, while waging the fight against corruption, we shouldn't be overoptimistic. Lasting reduction of corruption and the underlying conditions that create opportunities for corruption may require a very long and enduring battle. One should recognize that even in countries such as Britain, it has taken over a hundred years to bring corruption under control.⁴⁶ Neither should one develop pessimistic views. The experience of countries



such as, China, Hong Kong and Singapore that have been able to transform from very corrupt to a relatively clean within a reasonably short period shows that the epidemic of corruption is not at all beyond control. Developing countries, like Botswana and Chile have also managed to reduce bribery to a degree less than the case in many rich countries.⁴⁷ It can be argued therefore that all it takes is a sincere and unwavering commitment on the part of all concerned to control corruption, the government being on the frontline. In fact, different measures for different forms of corruption need to be undertaken so as to fit different circumstances. A single 'blueprint' may not work for all situations in all countries. In a generalized way, however, the following interdependent political, legal, administrative/governance measures are indispensable.

A. Committed, Honest, Capable, and Accountable Leadership: Combating corruption through governmental action is ultimately a matter of political will.⁴⁸ Political will is not just goodwill of top politicians. A government waging war against corruption needs to have popular backing, which is the case only when government practically demonstrates its credibility. As a writer puts it, "[government] needs to convince cynical populace, investors, and international organizations..."⁴⁹ Credible state commitment can be exhibited where, in Myint's terms, the ruling party possesses the courage to "fry some big fish, from [its] own pond"⁵⁰, that is to try and punish corrupt officials, no matter what their political loyalty is. On the contrary, the government is likely to lose popular support where it leaves doubts that anticorruption movements are aimed at discrediting political opponents. Differently put, citizens need to be unequivocally convinced that sincere and genuine efforts are underway.

History tells that governments are unlikely to have such courage to exert sincere efforts in the absence of a competitive political atmosphere. Corruption, as noted above is profoundly linked with weak competition: political, economic, social, or otherwise. Besides, the rewards of corruption may supply both the incentive and the means to preempt increased competition by buying off or intimidating competitors. This results in a kind of high corruption equilibrium in which those who know the situation may not dare to confront the problem.⁵¹ Thus, monopolized political power is likely to create corrupt friendly polity. Accordingly, deeper reforms in the political system are direly

necessary. Politicians must feel insecure about their prospects. Leader must feel the likelihood of receiving the most immediate and embarrassing punishment at the polls. Therefore, a genuine, democratic and transparent political election is crucially decisive to create a competitive political atmosphere, and thus to effectively control corruption.

Here, mention shall be made about the fact that the election process itself can be corrupt. Corruption relating to political financing has in fact been the main source of discontent with the working of democracy in recent years in advanced nations.⁵¹ Hence, the election process itself must be seriously monitored for corruption linked with political funding can ruin the whole democratization process, the fight against corruption, and efforts to promote human rights. In sum, a structured and orderly political competition is essential if corruption is to be controlled and human rights and fundamental freedoms are to be guaranteed.

B. Oversight Bodies: Skepticism about the willingness of governments and public officials to police themselves also brought wide agreement on the need for independent watchdog bodies. Institutions ranging from ombudspersons to independent anticorruption bodies would help in making anticorruption efforts effective. Such institutions would be critical in ensuring rule of law in the government process. But their roles are fairly distinct. For example, ombudspersons typically adjudicate grievances; oversee the situation in relation to access public services and administrative vices. On the other hand, anticorruption agencies focus on leading the campaign against corruption. Both institutions are therefore desirable at the same time.

In recognition of the vitality of the role they can play, independent anticorruption agencies have been established in many countries, including Ethiopia. But, such institutions can effectively work if they are created in a political atmosphere where there is sincere leadership commitment, where civil servants are insulated from political interference, where there are strong and independent judiciary, and so on.⁵² As a result, only a handful of such institutions have been able to prove successful. In this regard, the Independent Commission in Hong Kong, China, Singapore, Botswana, and Chile have won international honor for having played a crucial role in dramatically reducing corruption.⁵³

As stated above the government of Ethiopia has established such an institution, i.e. the FEAC. Yet, there is no reliable information on whether the establishment of the FEAC has contributed to reduce corruption in Ethiopia. No survey has been made on the prevalence of corruption since the establishment of the FEAC. Definitely, this is a clear weak point in the fight against corruption in our context. But if we have to rely on the corruption perception index by TI, corruption is worsening in Ethiopia. In this sense, one can conclude that the FEAC has not been effective so far. Thus, further steps should be taken in terms of, among many other things, making the activities of the FEAC highly transparent, promoting the ideas and activities of the FEAC among the society and work towards developing cooperation and mainstreaming ethics and anticorruption activities, and above all ensuring its political independence.

In addition to enhancing its transparency and enforcement capacity, the FEAC should build a strong and highly committed investigation department that is well prepared to know the grievances as well as corruption reports or information submitted or tipped to it by the public. Particularly, the Commission should be able to take exemplary measures by prosecuting wrongdoers in time and regardless of their political attitude/status. The government's current anticorruption effort does certainly require boosting and reforming in its various aspects if the current anti-corruption effort is to yield meaningful results. Most of the important activities that should be given high profile have to do with ensuring its political independence and enhancing its capacity. In fact ensuring political independence is probably the most difficult issue related to building successful anticorruption agencies.

Apart from the formal check and balance among the three traditional branches of government, independent anticorruption agencies can effectively check government operations. In designing an anticorruption agency, one should consider how the agency would act in the worst-case scenario: that is, in response to allegations of major corruption by the nation's president or prime minister. Hong Kong, a country honored for its unparalleled success in anticorruption work, has established arrangements that ensure public participation in policy formulation and oversight.⁵³ By providing for such an arrangement, the anticorruption framework would encourage transparency. In Hong

Kong, a file that has been opened cannot be closed without the consent of the external oversight committee, which includes representatives of civil society and the private sector.⁵⁴ No doubt this protects against corruption inside the agency it self.

C. Participation: Democracy is in essence about participation. Free, effective, and full participation of all the individuals concerned in decision-making and in the implementation government programs underpin the existence of the human right to development, which combines all human rights and fundamental freedoms. Hence, government processes must be consistently transparent and accountable; individuals must have equal opportunity of access to the resources for development and receive a fair distribution of the benefits of development, which in turn presupposes the elimination (or more realistically reduction) of corruption. Thus, a vibrant participation of individuals, groups, civil societies, and all stakeholders is necessary to both the realization of the right to development and efforts to control corruption.

D. Proactive Media: Experience shows that both democracies and autocracies can be deeply corrupt unless they are checked. In containing governments in check, the media plays a critical role. Here, mention can be made about the crucial role played by the press in various high profile corruption cases. It was the Washington Post and the New York Times that uncovered the Watergate scandal.⁵⁴ In Italy too, corruption became big news as the press became increasingly independent from political parties.⁵⁵ Investigative press in Italy played a decisive role in exposing high profile scandals by carrying details about private entrepreneurs who had paid bribes to well placed politicians in order to get lucrative contracts with the government.⁵⁶

Media must be, therefore, privately owned and free to criticize the government if it is to play its well-recognized role in corruption investigations. Thus, our government should further liberalize the public access to information and level the playing field for the free press. In sum, anticorruption efforts are less likely to be effective so long the media is in the exclusive monopoly control of the government. Because monopoly is always likely to create corrupt opportunities. Otherwise, the constitutional freedom of information and expression can't be sensibly exercised.

E. Reform: Development is the function of the evolution of democratic institutions and democratic consciousness of those who govern and the governed. Public institutions don't exist for their own sake, but to serve people in accordance with the law. The government should, therefore, carry out necessary reforms in the operation of public institutions: raise their efficiency and effectiveness; strengthen the legal institutions enforcement capacity, and so on. Indisputably, the proper functioning of the state is essential to minimize corruption and for the improvement of social and economic conditions. This is more so in the context of poor countries, such as Ethiopia, where the absence of dependable private sector makes it an imperative that the role of the state should go beyond the classical 'minimal intervention'. Reform may encompass revitalizing all government bodies including, but not limited to the civil service and the judiciary.

i. Civil Service Reform: History provides many cases in which even autocratic leaders have recognized the value and vitality of a professional civil service to ensure efficiency in the implementation of government policies and programs. The German Empire, the Chinese Empire, and modern China can be taken as glaring examples in this regard.⁵⁷ Such reforms may appear too expensive for poor countries, like Ethiopia, but are also unavoidable. Because laws, procedures, norms and directives find their application in the civil service, as division of labor requires it. A vital step in the implementation process of laws can thus create a void in the democratization process. The civil service must therefore be open, transparent, and accountable. Revitalizing civil services in terms making them politically neutral, enhancing professionalism and meritocracy, eliminating corruption-laden programs, unfettered discretion, etc is critically necessary. Government operations shall be undertaken in a transparent manner and public official shall be held accountable for their acts.

Once again, while corruption is likely to be widespread where there are no workable restraints that would ensure transparency and accountability in government operations, ensuring such transparency and accountability is linked with the overall political process. Corruption surfaces where the government is incapable or unwilling to control agencies it creates. In fact corruption can be described as a concomitant effect of a government's inability or unwillingness to control its bureaucracy effectively. It is also crystal clear

that corrupt politicians have little or no moral courage to control over enforcement agencies and regulatory organs thus giving way for the perpetuation of corruption.

ii. Justice Reform: Fighting corruption in the absence of a politically independent and capable judiciary is but a farce. An honest, independent and well-respected judicial system has no substitute in the fight against corruption and in maintaining rule of law. In the absence of independent judiciary, enacting ideal anticorruption laws may mean very little. Democracy based on a strong legal foundation provides a stable framework for all activities. On the contrary, politically dependent judiciary can facilitate high-level political corruption; undermine reforms, and override legal norms.⁵⁸ Here, judicial independence is not just about formal validity of laws establishing the independence of the judiciary; it is rather about their implementation.

The active participation of individuals and groups mentioned above can give sense only if there are avenues of complaint. The role of courts in this regard is indisputably critical. In India, citizens affected by corrupt or oppressive government action can bring public interest action to vindicate the collective rights of the public, without the need to show a direct and specific injury.⁵⁹ The Supreme Court of India has endorsed a liberal right of standing for ordinary citizens in recognition of the fact that “public spirited citizens having faith in rule of law can render great public and legal service by espousing cases of public nature”.⁶⁰

By contrast, studies have shown that there is lack of professional ethics, honesty, experience, and commitment on the part of judges in this country.⁶¹ As a result, there is popular discontent and lack of confidence in the courts. In fact, the issue of judicial independence and the fight against corruption can't be seen in isolation. It is rather part of the overall democratization process in the economic, social, and political atmosphere of a nation. Citizens must, for example, experience freedom to challenge government action. They must feel secured from reprisals. Clearly, very much remains to be done in this regard, particularly in the context of our 'soft society', having unreasonable fear and reverence to politicians and bureaucrats. Here again, formal structures of accountability may be meaningless if government officials have the opportunity to intimidate and harass those who openly speak or accuse them.

F. Information and Auditing: In all democratic countries, the legislature reviews and controls executive spending.⁶² The legislature is composed of a significant number of opposition politicians means that the review gets political cast. Such review must be open, serious and participatory. As pointed out in chapter two, the most blatant form of corruption in Ethiopia, like the case in other countries, occurs where financial resources are transferred from the private to public sector and vice versa. Customs office, Inland Revenue Authority, Privatization Agency, Danger Prevention and Preparedness Commission, Rental Houses Administration, are just few of public bodies have been identified as breeding grounds of corruption in Ethiopia.⁶³

Corruption is highly alarming in Regional States too. But, surprisingly enough, while the FDRE government has the constitutional mandate to audit and inspect the proper utilization of subsidies it grants to states, there are regional states that have never been audited since the establishment of the FDRE government.⁶⁴ The lame justification given is that there are language barriers. The General Auditor has also serious capacity problems to audit even federal government agencies. As a result, most government bodies are not annually audited.⁶⁵ Allegations have it that auditing in this country has practically less worth beyond pretending to donors, as those heads of public bodies that squandered public funds are not prosecuted.

CONCLUSION AND RECOMMENDATIONS

The unprecedented progression in human rights arena has brought the world to a consensus that all human rights are indivisible and interdependent. In recognition of the fact that development serves as bedrock to combine all factors that serve as pillars of human well-being, which is the most cardinal component of human rights, the UN General Assembly has in 1986 adopted a new generation of human rights known as the right to development. The RTD recognized as an inalienable human right is a comprehensive concept, embracing virtually all human rights, and constitutes in economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

Even though the declaration on the RTD has not yet been transformed into a binding instrument, it is argued that there is, nevertheless, a legally binding human right to development. The reason is that the declaration on the RTD basically centers on the promotion and protection of human rights already recognized in other binding international human rights covenants. Nonetheless, there subsists a big vacuum with respect to the realization of the RTD. In fact, there has been less consensus on the mechanisms of implementation. There has persisted a kind of North-South ideological battle instead. While developing countries emphasize and seek more international assistance and cooperation for the implementation of this right, their developed counterparts insist on the improvement of human rights situation for the realization of the RTD. Still, the fact that development and human rights are indivisible has been recognized beyond dispute.

As a result of lack of implementation mechanisms and sincere political will, the overwhelming majority of people, especially those living in the so-called third world countries, like Ethiopia are still facing harsh realities of underdevelopment. A careful examination of the declaration on the RTD, on the other hand, reveals that individual states have the primary responsibility in the realization of the human right to development: The declaration requires states particularly to eliminate obstacles to development.

On the other hand, the world has come to a nearly consensus that corruption is the most monumental challenge to development. The reason is that corruption, like acid 'sprays' rights abuse throughout the social, political and economic system. What is more, like corruption has deleterious impact on social, economic, and political development, underdevelopment is in part responsible for the perpetuation of corruption. Thus, poverty and corruption feed and reinforce each other. Inversely, therefore, anticorruption works can play a critical role in the realization of the right to development. In recognition of this fact, corruption has been put on top the development agenda at both national and international levels.

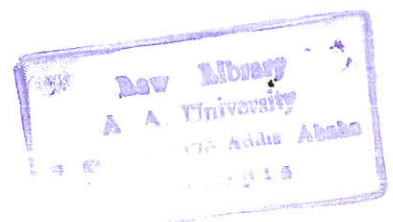
Indisputably, the realization of the RTD requires elimination of corruption. While at the same time drawing upon international cooperation and solidarity, the realities of underdevelopment and human rights situation in poor countries, such as Ethiopia make it an imperative that effective anticorruption measures be undertaken. No doubt that there is a pressing need to eradicate the cancer of corruption if its debilitating effects on development are to be stamped out. To bring corruption under control, it is not sufficient for a government to eliminate 'bad apples', i.e., punish corrupt officials. The most effective measure against corruption must address its underlying causes. Constructive and well-considered political, economic and institutional reforms should be undertaken to stamp corruption out from its root.

Studies reveal that corruption is widespread in low-income countries than in rich countries. This is not because people in poor countries are inherently more corrupt than their counterparts in rich countries, but simply because conditions in poor countries are more conducive to corruption. While corruption is deep-seated in political, economic, and institutional weaknesses, in poor countries, the tradition of accountability is weak, political competition and civil liberties are often restricted, the judiciary is weak and not essentially independent, watchdog institutions are often missing, and so on. The situation of Ethiopia is never an exception to this fact.

Though lately, corruption has been recognized as a damaging threat in Ethiopia. The establishment of FEAC can be mentioned as a commendable step forward in this regard. Yet, the efforts made by the FEAC don't seem to have been effective. The reason is that

corruption can't be tackled in isolation. If the crusade in to yield fruit, anticorruption movements should be pursued as part of a more comprehensive goal of creating a more effective, accountable and truly representative government. This in turn requires undertaking deep reforms in the political, legal and administrative arena. Still, reform alone can't make corruption wither away.

Like other crimes, it may not be possible to eliminate corruption. But, definitely it can be checked and brought under control. Yet, it surely requires a genuine political will and sustained leadership commitment, which is likely to be the case where there is competitive political atmosphere. Democratic, transparent and periodic election is therefore critically decisive to eradicate corruption. Also, a capable and independent judiciary, proactive and responsible media, vibrant civil society, and a transparent and accountable bureaucracy are essential in the fight against corruption. Anticorruption efforts in Ethiopia should therefore be streamlined in all the democratization processes.



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DECLARATION

This thesis is my original work and has not been presented for a degree in any other university, and that all sources of material used for this thesis have been duly acknowledged.

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This thesis has been submitted to for Examination upon my approval as a university advisor

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