



ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE

CENTER FOR HUMAN RIGHTS

**VILLAGIZATION IN CONTEMPORARY ETHIOPIA: THE EXPERIENCE OF
GAMBELLA REGION, ANYWAA ZONE, FROM HUMAN RIGHTS
PERSPECTIVE**

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PERSPECTIVE

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DECLARATION

I, Zinabu Endalfer, do hereby declare that this work '**Villagization in Contemporary Ethiopia: The Experience of Gambella Region, Anywaa Zone, from Human Rights Perspective**' is my original work and has not been presented in any other institution before. Whenever other sources are used or quoted they have been duly acknowledged.

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CERTIFICATION

This thesis entitled '**Villagization in Contemporary Ethiopia: The Experience of Gambella Region, Anywaa Zone, from Human Rights Perspective**' submitted in partial fulfillment of the requirements of the Master of Arts in Human Rights to the College of Law and Governance, Addis Ababa University, through the Center for Human Rights, written by Zinabu Endalfer, has been submitted for examination with my approval as Addis Ababa University advisor.

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ACRONYMS

AAU	Addis Ababa University
ACHPR	African Charter on Human and Peoples' Rights
ACHPR	African Commission on Human and Peoples' Rights
BOFED	Bureau of Finance and Economic Development
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
E.C	Ethiopian Calendar
EFY	Ethiopian Fiscal Year
FDRE	Federal Democratic Republic of Ethiopia
FGD	Focus Group Discussion
FPIC	Free, Prior, and Informed consent
FTC	Farmer Training Center
GOE	Government of Ethiopia
GPNRS	Gambella Peoples National Regional State
GTP	Growth and Transformation Plan
Ha	Hectare
HRBA	Human Rights Based Approach to Development
HRC	Human Rights Committee
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organization
MDGs	Millennium Development Goals
MOARD	Ministry of Agriculture and Rural Development
MOFA	Ministry of Federal Affairs
MOFED	Ministry of Finance and Economic Development

NGO	Non-Governmental Organization
PRSP	Poverty Reduction Strategic Paper
RRC	Relief and Rehabilitation Commission
SNNPR	Southern Nations Nationalities and Peoples Region
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
VVP	Voluntary Villagization Program
WB	World Bank
WORKING GROUP	African Commission's Working Group on the Rights of Indigenous Populations/Communities
WPE	Workers Party of Ethiopia

ABSTRACT

In Ethiopia history dates back to the imperial regime relocating people from drought prone and over-crowded areas to less populous and moisture sufficient areas has been adopted as one of the policy ideals that have introduced to alleviate various socio-economic problems. However, such schemes of people's relocation undertaken in Ethiopia had been bitterly criticized within the international community given that the scheme had been driven by merely political imperatives and characterized by coercive, unplanned and disregards humanitarian considerations.

It is against this background that in 2003 E.C the GoE embarked up on the villagization program in emerging regions of the country, Gambella as a case in point and "socio-economic and cultural transformation" of communities who are settled in a dispersed way, with its declared purpose. Taking this as a background, this study was concerned on examining the villagization experience from a human rights perspective in two case study villages in Anywaa zone of Gambella region. To achieve this objective, the study employed qualitative approach. And, data for the study were collected from target communities, key informants, field observation, and from secondary source as international and regional human rights instruments, national legislations, reports, and documents of different institutions.

After conducting serious analysis as per the interview responses of the target communities in the study villages and key informants represented from federal to Kebele level, and field study, the researcher, presents empirical evidences and eventually addressed the following concerns to the study villages: procedural issue of consultation and the villagization program, distributive issue of compensation and the villagization program, cultural practices at the new settlement areas, access to basic social services in new villagization site, and the villagization program implications for the right to development of villagers.

CHAPTER ONE

1.1 Background to the study

Villagization is characterized by the relinquishment of the traditional scattered or semi-permanent way of settlements predominantly used by pastoralists or shifting cultivators and the adoption of concentrated and permanent settlements among various sections of the society towards settled agriculture.¹ Debates about how to improve the quality life of the peoples and on the nature of how development conceived is still important for Africa where myriads of developmental models failed. In spite of the fact that, there is little consensus what development actually means and how development could be brought about, it remained as one of the key aspirations of the developing world including Ethiopia. Presently, one of the development models which are being promoted as a panacea for Africa is the developmental state. According to Asnake, “the core idea of the theory of developmental state is that the state should make development its top priority and intervene in the economy to facilitate growth and industrial transformation”.²

In Ethiopia’s context, the incumbent party has explicitly committed itself to building a “democratic developmental state” that efficiently guides the national socio-economic and political development of the country by mobilizing the human and material resources of the state and directing them towards improving the living conditions of the majority of its population.³

The Federal Democratic Republic of Ethiopia (FDRE) Constitution recognizes the presence of different socio-cultural groups, including historically disadvantaged and underserved communities with reference to their rights to socio-economic equity and justice.⁴ Currently, to address this, the government in its institutional framework mandated the Ministry of Federal Affairs (MoFA) to ensure equitable development among regions with special emphasis on

¹ Kikula, I. (1997): Policy Implications on Environment: The Case of Villagization in Tanzania. Uppsala: The Nordic Africa Institute, p.14

² Asnake Kefale (2011): Narratives of Developmentalism and Development in Ethiopia: Some Preliminary Explorations, p.2

³ Ibid at p.2

⁴ Federal Democratic Republic of Ethiopia(2013): Pastoral Community Development Project (PCDP-3) and Regional Pastoral Livelihood Resilience Project (RPLRP): Social Assessment Report, p.3

delivering special support to emerging regions including Gambella People's National Regional State (GPNRS).⁵ As a policy option, although the current ruling coalition opposed to similar programs the *Derg* undertook in the mid-1980s, it promotes a villagization program as an approach to ensure development in general and provision of social services to least served emerging regions in particular.⁶ Accordingly, the government of Ethiopia recently launched a villagization program in the GPNRS which has been implemented during 2010/11-2012/13 and targeted to settle 45,000 households.⁷

The period of Ethiopia's political history of direct relevance to the policy of villagization begins during the 1980s.⁸ Alula and Piguet labelled, the *Derg* regime's experience of villagization: "one of the most complex, ambitious and draconian measures ever attempted by the Ethiopian state".⁹ It was poorly planned, badly organized and violently enforced as well as not sufficiently maintained and has been driven more by political imperatives than humanitarian or economic objectives.¹⁰ Likewise, from African countries experience of villagization, Sakamoto pointed out that, villagization was pursued in Tanzania, commonly called *ujamma* villages, intended to create self-reliance for agriculture and provision of basic social services but resulted socio-economic and cultural failure to the villagized communities due to improper planning and implementation processes.¹¹ Thus, the villagization experiment of *ujamaa* is criticized as a failed example of large-scale state planning.¹²

⁵ FDRE Ministry of Federal Affairs, Equitable Development Directorate (2013): Equitable Development Manual: Regions in need of special support strategy,p.3

⁶ Oakland Institute(2013):Development Aid to Ethiopia: Overlooking Violence, Marginalization, and Political Repression,p.10

⁷ Gambella Peoples' National Regional State; Villagization Program Action Plan (2003 EFY),p.1

⁸ Lorgen, C. (1999): The Experience of Villagization: Lessons from Ethiopia, Mozambique, and Tanzania; Oxfam GB,p.12

⁹ Derese Getachew (2009): Resettling the Discourse on Resettlement Schemes towards a New Approach,p.867

¹⁰ Stellmacher, T. and Eguavoen, I. (2011): The Rules of Hosts and Newcomers. Local Forest Management after Resettlement in Ethiopia,p.4

¹¹ Guyu Ferede (2012): Voluntary Villagization Scheme (VVS) for Transforming Semi-pastoral Communities in Benishangul-Gumuz Region, Northwestern Ethiopia: Challenges and Local Development Indicators,p.248

¹² Scott, J. (1998): Seeing Like the State: How Certain Schemes to Improve the Human Condition Have Failed. New Haven: Yale University Press.

Parallel to the Tanzania's *ujamma* villagization experience, *Derg's* political objective of villagization program in Ethiopia resulted in the fleeing of thousands of people to avoid villagization and others died, and those forcefully relocated to the newly established villages lived in deplorable conditions.¹³ Paradoxically, the current government vows that a repeat of the *Derg's* failed attempt will not happen, and at the same time under the Growth and Transformation Plan (GTP) explicitly states that enhancing and expansion of social development is among the main pillar strategies.¹⁴ Realizing these developmental targets is difficult and costly in the lowlands mainly due to the scattered human settlement.¹⁵

To deal with the constraints of sparse population density, the Ethiopian government has embarked up on a “voluntary villagization program” in regions of Afar, Benishangul-Gumuz, Gambella, Oromiya, Somali, and Southern Nations, Nationalities and Peoples (SNNP). On the face of it, this policy direction seems to follow from the FDRE constitution Article 89 sub-article 4, which stipulates the government's duty to provide special assistance to least advantaged nations, nationalities, and peoples in economic and social development.¹⁶ To this effect, GPNRS as a case in point, the villagization program is framed as the regional government's development agenda and has been pursued since 2010/11 for the three consecutive years with its declared aim to bring socio-economic and cultural transformation of the people who are scattered along the riverside, prone to frequent flooding.¹⁷

Taking these points as a background, the objective of this thesis is to examine the experience of the Gambella region (Anywaa zone) villagization program from a human rights perspective.

¹³ Resettlement and villagization, retrieved from <http://countrystudies.us/ethiopia/>

¹⁴ Ministry of Finance and Economic Development(2010): Growth and Transformation Plan,2010/11 – 2014/15,p.8

¹⁵ Ministry of Finance and Economic Development(2003): Rural Development Policy and Strategies,p.59

¹⁶ The Constitution of the Federal Democratic Republic of Ethiopia, Federal Negarit Gazzeta. No. 1, 1995

¹⁷ Supra note 7 at p.1

1.2 Problem Statement

In Ethiopia there is disparity in social development indicators between the highland and the lowland, and the latter is least served. Accordingly, the Growth and Transformation Plan (GTP) document gives special emphasis to deliver basic social services in the peripheral regions (including GPNRS), where access to basic social services is limited.¹⁸ To this end, in Gambella, the regional government has developed and executed villagization program during 2010/11-2012/13 fiscal years with the aim of gathering the regional community which were settled along riversides. The declared purpose is to ensure food security, build socio-economic facilities and accessibility to development as well as cultural transformation.¹⁹

However, the role of the state in promoting socio-economic progress has been a subject of contestation among international development experts and policy analysts.²⁰ The current villagization program in the Gambella region is also not without controversy. The Human Rights Watch (HRW), which is one of the most known transnational human rights advocacy organizations, contests that the program is taking place through eviction of indigenous peoples from their ancestral land with no a meaningful consultation or compensation. The organization also argues that the measures taken by the Ethiopian government are inconsistent with international law in general and the Ethiopian constitution in particular. Paradoxically, the Ethiopian government argues that villagization is necessary for local people to benefit from development and ensure their socio-economic rights despite rights groups' contention that the program is merely intended to make land available for commercial agriculture foreign investors and small-scale Ethiopian investors at the expense of the human rights of indigenous peoples.²¹

18 Dereje Feyissa (2013): "Centering the periphery? The Praxis of Federalism at the Margins of the Ethiopian State"; Ethiopian Journal of Federal Studies,p.170.

19 Gambella Peoples' National Regional State Bureau of Agriculture and Rural Development(2010): Villagization Program Implementation Manual,p.2

20 Fritz, V. and Menocal, A. (2006): Rebuilding Developmental States: From Theory to Practice, Working paper 274,p.2

21 Human Rights Watch Report (2012): "Waiting Here for Death" Forced Displacement and Villagization in Ethiopia's Gambella Region,p.17

1.3 Research Objectives

General Objective

The general objective of this study was to examine the trade-offs between socio-economic rights, and cultural and consultation rights of Anywaa community in the implementation of the villagization program.

Specific Objectives

The specific objectives of the study are;

- To assess whether the villager's right to be consulted was taken in to account when the villagization program was undertaken.
- To describe how the issue of compensation was considered in the implementation of the villagization program.
- To explore changes made on basic social services in the new villagization sites in comparison to the pre-villagization settlement areas.
- To determine to what extent the villager's are exercising their cultural practices in the new settlement areas.
- To exemplify the villagization program implications for the right to development of the villagers'.

1.4 Research Questions

1. Has the villager's right to consultation been considered when the villagization program was undertaken?
2. How the issue of compensation was considered in the implementation of the villagization program?
3. How adequate are the socio-economic services provided in the new villagization sites?
4. To what extent the villager's are exercising their cultural practices in the new settlement areas?
5. What are the villagization program implications for the right to development of the villager's?

1.5 Significance of the study

This research is significant at many levels. So far there are very few researches done in Ethiopia on villagization scheme of indigenous peoples of the region. Therefore, it is hoped that the findings of this study will generate valuable information on pros and cons of the villagization program from a human rights perspective. This study will also help to produce empirical evidences to address the current villagization program which is subjected to controversy with regard to the rationale behind the program between human rights advocacy groups and the Ethiopian government. Furthermore, the researcher hopes that the findings of this study will help other researchers and act as a springboard for further investigation of other areas not covered in this study.

1.6 Research Methodology

The research methodology employed in this study in order to achieve the objectives stated above is qualitative approach. Qualitative research focuses on respondents' perceptions and the way they make sense of their lived experience.²² To this end, data was collected from the target communities, representatives of federal government, regional government as well as zonal, *woreda*, and *Kebele* administrators. Documents of relevant institutions, at various levels were also examined.

1.6.1 Data Collection Tools

In order to accomplish the purpose of this study, the following methods of data collection have been used.

- Semi-structured interview was conducted with officials from Ministry of Federal Affairs, Regional Federal Assistance Board Coordinating Office, Gambella Region Bureau of

²² Creswell, J. (2003): Research Design: Qualitative, Quantitative and Mixed Approaches, 2nd Edition, p.22

Agriculture, Gambella Region Villagization Program Coordinator, Gambella Region Culture and Tourism Bureau, Zonal administration, *Woreda* administration and *Kebele* administration.

- Focus group discussions with the affected communities were also conducted. Furthermore, the researcher made exclusive interview with two households (relatively good to speak in Amharic) from each *kebele*.
- The researcher also observed the settlement pattern, way of life of villagers, success of agricultural extension program in increasing productivity, accessibility and functionality of socio-economic facilities (school, health post and water points).
- Photographs were also taken during field observation.

1.6.2 Sampling

To access the relevant data, the researcher used purposive sampling technique. In line with this, key informants from federal level up to *kebele* level who were involved in the planning, designing, implementing and monitoring as well as supervision of the villagization program were interviewed. Beside, the researcher collected relevant information through focus group discussion (FGD) from the selected village's residents who are affected by the program. With respect to sample size four FGDs (two FGDs in each village) were conducted in the selected villages. Consequently, 6 women and 10 men in each FGDs, a total of 16 individuals from Abobo *woreda* (Chebokir village), and 9 men and 5 women in each FGDs, a total of 14 individuals from Abole *woreda* (Opagna village) participated in the FGDs. From those who took part in the FGDs 11 of them are women and 19 are men. Furthermore, the researcher also conducted semi-structured interview with four households from the selected villages.

1.7 Scope and Limitation of the study

The rights of indigenous peoples enshrined under the international human rights instrument and regional human rights framework are numerous. To carry out a research on all those rights will suffer from time and resource limitations. The scope of this study is therefore delimited to examining two basic areas: the socio-economic rights of the indigenous peoples in the new settlement areas (with particular reference to access to education, health care and clean water) in the one hand, and cultural rights and right to be consulted on the other.

With regard to the research setting, from the three zones of the Gambella region (Anywaa Zone, Nuer Zone and Megeng Zone) where the villagization program has been implemented, the program covers 11 *woredas*. To make the research manageable, only Anywaa zone was selected as a research setting. From Anywaa zone the villagization program covers five *woredas* and from these the researcher took two *woredas* and these are Gambella *woreda* and Abobo *woreda*. *Kebeles*/villages were selected from the two *woredas* keeping in mind financial and accessibility issue. And from Gambella *woreda* and Abobo *woreda*, Opagna *kebele* and Chebokir *kebele* chosen respectively. This study was delimited to villages established during the first round of villagization program (2003 E.C.).

Financial constraints, transportation problems, and insecurity forced the researcher to choose those *woredas*. Besides, language barrier was also challenge the researcher to get in-depth feelings of the communities. However, the researcher used a translator to collect the relevant data from the communities.

1.8 Ethical Considerations

Researchers are expected to be careful of the ethical issues on the data collection procedures which are vital to collect valid and reliable data from research participants. Firstly, permission to carry out the research official letter to the concerned institutions at federal and regional level was obtained from Addis Ababa University, Center for Human Rights, MA program coordinating office. Accordingly, the researcher has taken an important ethical consideration in to account. To this end, the researcher considered ethical principles such as informed and voluntary participation, privacy and confidentiality of research participants. Interviewees and discussants have been informed of the purpose of the study without any form of deception before securing informed consent from them. Moreover, all participants of the study were informed on their right to confidentiality of the personal information they provide during the interview, where if they don't, their names are not used in this thesis.

1.9 Organization of the thesis

This study is structured in to four chapters. Chapter one introduces the study, problem statement, objective of the study, research question, significance of the study, scope and limitation of the study, methodology and ethical consideration. Chapter two contains the review of related literature part. Background of the study area, and findings and discussions form chapter three. Lastly, the conclusion of the findings completes this study.

CHAPTER TWO

REVIEW OF RELATED LITERATURE

2.1 Introduction

Resettling of people to new locations has become a dominant development practice in many parts of the world in response to natural and manmade factors or for political, economic, and social reasons.²³ Terms used in the program implementation guidelines of such movement of people have certain differences. Governments describe such population relocation schemes as resettlement, villagization, collectivization, commune and the like. The concept of villagization is frequently confused with resettlement, of course, there are points where they overlap and differ. Cognizant of this and due to the interchangeable usage of the two concepts by some researchers, having a clear cut and agreed up on definition is mandatory for the purpose of this study. According to Mengistu resettlement is defined as the process by which “individuals, or a group of people, spontaneously or unspontaneously, leave their original settlement sites to resettle in new areas where they can begin new trends of life by adopting to the biophysical, social and administrative system of the new environment.”²⁴ Resettlement involves large-scale movement of the population over long distances.

Villagization involves the relocation of scattered dwellings and settling in mostly similar geographic and administrative units without moving significant distances.²⁵ Bearing in mind that villagization and resettlement are different in characteristics, and that the government of Ethiopia explicitly stated in its program as “voluntary villagization program”, the term villagization seems to be more appropriate for use in this study. Moreover, the program implementation document signifies people are relocated to areas in their own similar geographic and administrative units, without mixing ethnic groups. Therefore, in this section the term ‘villagization’ and the scant literature on it would be used and reviewed.

²³ Fasika Hailu (2013): The Approach and The Reproaches of The Resettlement and Villagization Program in South Omo Zone, p.13

²⁴ Mengistu Woube (2005): Effects of Resettlement Schemes on the Biophysical and Human environment: The case of Gambella Region, p.19

²⁵ Supra note 23 at p.13

2.2 Villagization Experiences in Ethiopia

2.2.1 Villagization under *Derg* Regime

Ethiopia is one of the world's poorest countries. Throughout its recent history, it has suffered from recurring droughts and famines, in particular, during the dark period of the 1984-1985, when the southern and northern parts of the country were devastated by famine.²⁶ Consequently, the primary government reaction to the drought and famine was the relocation of affected people living in the drought prone areas to the southwestern parts of the country.²⁷ Accordingly, this relocation of famine stricken people labeled in two distinct but faintly related programs of resettlement and villagization under the government ten-year development plan.²⁸ The government conducted most of these relocation programs under the auspices of the Relief and Rehabilitation Commission (RRC) and the Ministry of Agriculture.²⁹ Particularly, the villagization program was organized by the National Villagization Coordinating Committee of the Ministry of Agriculture in collaboration with the Workers Party of Ethiopia (WPE).³⁰ When the villagization program began, it was in a limited scope, but a year later became a nationwide campaign which came up with a plan of moving some 33 million rural residents into villages, approximately two-thirds of the nation's population.³¹

The *Derg's* villagization policy seems to follow from the constitution provision which reads as:"the state shall encourage the scattered rural population to aggregate in order to change their backward living conditions and enable them to lead a better social life". Accordingly, the government justified the objective of *Mandar Mesereta* (villagization) program; to regroup scattered farming communities throughout the country into small village clusters, so as to

²⁶ Sandra, S. (1987): Resettlement and Villagization-Tools of Militarization in SW Ethiopia; Cultural Survival Quarterly,p.1

²⁷ Ofcansky, P. and Laverie, B. (2002): Ethiopia, a Country Study. Black mask Online Retrieved from <http://www.blackmask.com>

²⁸ Supra note 26 at p.1

²⁹ Supra note 27 at p.107

³⁰ Ibid at p.138

³¹ Supra note 26 at p.1

improve agricultural production, to introduce social and economic change, rational land use as well as to make the distribution of people compatible with that of the natural resources.³²

This program was implemented in the regions of Ethiopia that have the biggest farming populations such as the Shoa, Arsi, Hararge, and to a limited extent Gojjam, Sidamo, Wellega, Keffa and Illubabor.³³ The way the villagization program had been implemented especially the level of force, for instance in Hararghe, was believed to be substantial, indeed, including executions of uncooperative farmers as well as the burning of houses and crops. These were also true, in the remaining target areas of the program. Thus, the program execution was definitely involuntary.³⁴ By 1989 the government had villagized 13 million people. Later on international condemnation and deteriorating insecurity conditions as well as scarce resource on the government's side caused the program to vividly slow down.³⁵

According to Lorgen, poor planning, lack of popular support, site selection without experts, and being coercive contributed to social disruption and decline of agricultural production. As a result, he stated that, "villagization in Ethiopia destroyed cultural identity and inhibited peoples' independence and organizational ability".³⁶

As cited in HRW report, Mulatu summarized the villagization experience of the *Derg* regime, as follows:

The verdict on villagization was not favorable. Thousands of people fled to avoid villagization; others died or lived in deplorable conditions after being forcibly resettled. There were indications that in the short term, villagization may have further impoverished an already poor peasantry. The services that were supposed to be delivered in new villages, such as water, electricity, health care clinics, schools, transportation, and agricultural extension services, were not being provided because the government lacked the necessary resources. Denied

³² Lorgen, C. (1999): The Experience of Villagization: Lessons from Ethiopia, Mozambique, and Tanzania; OxfamGB, p.13

³³ Supra note 23 at p.31

³⁴ Supra note 32 at p.14

³⁵ Supra note 21 at p.12

³⁶ Supra note 32 at p.14

immediate access to their fields, the peasants were also prevented from guarding their crops from birds and other wild animals.³⁷

2.2.2 The Current Villagization Program in Ethiopia: Overview

Yet, in Ethiopia, the state's desire of enhancing expansion and quality of infrastructure development has not reached its expected level due to limited human capacity, huge investment requirement and dependency on foreign aid.³⁸ Accordingly, limited provision of infrastructure has also remained one of the alarming challenges in the endeavor towards socio-economic transformation and poverty reduction in Ethiopia in general and in emerging regions in particular.³⁹

Cognizant of this, under the GTP Plan document, enhancing expansion and quality of infrastructure development to bring about societal transformation is considered as a central pillar strategy. To achieve this, the government has been taking measures, particularly in lowland areas where access to social services is limited.⁴⁰ In line with this, the government came up with implementing villagization program in selected regions of the country, and contends that the hitherto underdeveloped regions within a few years will become development centers.⁴¹

Accordingly, the year 2003 E.C marked the revitalization of planned population relocation strategies of “voluntary villagization program” (VVP) by the GoE, and the program covers all emerging regions; Afar, Benishangul-Gumuz, Gambella, and Somali. The government insists that, if settlement is deemed to be the best way forward for rural development, it should be conducted based on a well-conceived plan and with a well-coordinated government support. Furthermore, it has been declared that the program will not repeat the political crime perpetrated by the *Derg* rather it should definitely take into account and considerations for the shortcomings of the *Derg's* settlement program; i.e., that it was carried out hastily, compulsory, guided by an incorrect political outlook rather than humanitarian motives. Therefore, the *Derg* villagization

³⁷ Mulatu Wubne (2002):“Resettlement and Villagization”. Cited by Human Rights Watch Report (2012):“Waiting Here for Death” Forced Displacement and Villagization in Ethiopia’s Gambella Region,p.11

³⁸ Supra note 14 at p.8

³⁹ FDRE Ministry of Finance and Economic Development (2002): Sustainable Development and Poverty Reduction Program p.34

⁴⁰ Supra note 14 at p.10

⁴¹ Supra note 39 at p.58

program failed miserably and caused considerable economic, social and cultural failure to those who were villagized.⁴²

On the face of it, the GoE took the VVP as a strategy of transforming the livelihood of settlers and ensure food security at household level as well as providing socio-economic and infrastructural delivery on a voluntary principle through intra-regional approach.⁴³ A case in point, Gambella's VVP, has been implementing since 2003 E.C with the declared purpose of improving:

“access to basic socio-economic infrastructures of those people who are settled scattered and along the riverside which are prone to flood hazard and those who practice cut and burn shifting cultivation and ultimately to make them food secured and to bring socio-economic and cultural transformation of the people”.⁴⁴

2.3 Revisiting Villagization Experiences of other African Countries

The basic notion of villagization is to collect a scattered settlement pattern of rural populations into a nucleated form of villages, which usually does not involve moving significant distances. Its motive may be humanitarian, political, ecological, agricultural, militaristic, administrative, or a mix of several of these. As well, the process of implementation and the lived experience of those villagized also considerably vary between and within countries.⁴⁵

Accordingly, this section is devoted to review the experiences of villagization from selected African countries. These are Tanzania and Mozambique, where massive villagization program had been undertaken in the 1970s. The countries' villagization experience would be examined in consideration of the motives behind the program, the process of its implementation and its impacts on those who were villagized from a human rights perspective.

⁴² Ibid at P.56

⁴³ NCFSE (2003): Voluntary Resettlement Program (Access to improved land), New Coalition for Food Security in Ethiopia. Cited by Guyu Ferede (2012): Voluntary Villagization Scheme (VVS) for Transforming Semi-pastoral Communities in Benishangul-Gumuz Region, Northwestern Ethiopia: Challenges and Local Development Indicator,p.244

⁴⁴ Supra note 7 at p.1

⁴⁵ Supra note 32 at p.1

2.3.1 Lessons from Tanzania's Villagization Experience

At independence in 1961, about 90 percent of mainland Tanzanian population lived in the countryside in scattered hamlets. These scattered settlements posed problems to the post-independence government which was determined to improve the standards of living of its people through increased agricultural productivity and provision of various social amenities.⁴⁶

As well, the World Bank mission in 1959, recommended resettlement as a pre-condition for transforming peasant agriculture. Indeed, the administration believed that self reliance at national level as the only way out of Tanzania's poor economic situation.⁴⁷ And later, with the Arusha Declaration of 1967, the government set a path for the state, towards socialism and self-reliance, with villagization as an important component.⁴⁸

Accordingly, the *ujamaa* villagization scheme was adopted for the rural sector success. The purpose of village formation was aimed at: "the delivery of services; the creation of a more productive, modern agriculture; and the encouragement of communal, socialist forms of cooperation".⁴⁹

Furthermore, the government justified the villagization scheme on the ground that;

It would lead to the modernization of the traditional agriculture characterized by shifting cultivation, small farms, poor implements and low yields, and this would change through economies of scale in use of tractors, distribution of agricultural inputs (e.g. fertilizers and insecticides) and dissemination of information. It was also argued that it would be both practical and economical to provide people with the different social amenities if the settlements were concentrated.⁵⁰

⁴⁶ Supra note 1 at p.13

⁴⁷ Ibid at p.14

⁴⁸ Supra note 32 at p.17

⁴⁹ Supra note 12 at p.230

⁵⁰ Supra note 46 at p.14

In early periods of implementation of the program was voluntary and no one was forced in to an *ujamaa* village. However, later on when the government felt that the scheme was not going as planned, the approach eventually changed, and to live in village was considered as an order. To this end, “force, or the threat of force, was used liberally against those who would not go voluntarily, and houses were destroyed to make sure that peasants did not move back into their old homes”. Furthermore, its implementation was out of tune with the social and cultural realities of the rural society.⁵¹

Although the *ujamaa* villagization scheme advocated through which people work and live together for their own good, but improper planning, lack of popular support, and inadequate appreciation of the Tanzania’s reality contributed to the scheme to be futile.⁵²

Accordingly, given that the *ujamaa* philosophy was unsuccessful attempt, Ibhawoh and Dibua pointed out its outcome by saying:

The *ujamaa's* commitment to the modernization paradigm resulted in a situation where improving the conditions of the peasants meant alienating them from their cultural and social realities in favor of transplanting western ways of life and it was unique in the paradoxes it reflected, in its inward orientation and attention to social equity and distributive justice.⁵³

James Scott in his seminal work “Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed” stated that, the experiment of *ujamaa* villagization philosophy as a typical failed example of large-scale state planning villagization program with adverse economic, cultural and environmental consequences for peasants in developing countries.⁵⁴

⁵¹ Supra note 32 at p.18

⁵² Ibhawoh, B.and Dibua, J.(2003): Deconstructing Ujamaa: The Legacy of Julius Nyerere in the Quest for Social and Economic Development in Africa,p.68

⁵³ Ibid at p.61

⁵⁴ Supra note 12 at p.225

2.3.2 Lessons from Mozambique's Villagization Experience

After Mozambique became independent from Portugal in 1975, the new government had seen the country as impoverished and crippled, particularly in its resource and socio-economic services. Accordingly, the government devised communal villagization, a way to redistribute scarce resource and social amenities to the dispersed traditional family unit as well as a means to urbanize and modernize the countryside.⁵⁵

In earlier periods of implementation, joining villages was optional. However, large-scale forced rapid villagization began later in the early 1980s, which resulted in peasant discontent and resistance against the program. Despite peasants claim that their land had historical value and relatives were buried on the land, the government carried out along militaristic lines, with severe penalties for those who resisted to move, including burning down homes and refusing food to those in need.⁵⁶

However, poor planning process by external experts who were not familiar with Mozambican reality, failure to consider the needs of the peasants, lack of pre-studies in establishment of villages, that they were poorly situated in access to water supply, construction materials and distance from farm areas, and the general incompatibility of the program with the objective realities in the rural areas and ignoring inputs from the bottom contributed to its failure. For example, long distance to the fields hurt the agricultural productivity and social services were provided only in some villages.⁵⁷

2.4 Indigenous Peoples' Rights: A look at International and Regional Instruments

2.4.1 "Indigenous Peoples": A contested concept

Recently, the concept and the rights of indigenous peoples have been the subject of intense debate. Despite this attention and the enormous strides that have been made at international law, at least with respect to drawing world attention to the plight of groups that identify themselves as indigenous peoples, there is controversy regarding its applicability to certain parts of the world

⁵⁵ Supra note 32 at p.15

⁵⁶ Ibid at p.16

⁵⁷ Ibid at p.17

and determining which peoples are indigenous is a complex and difficult question. Conceivably this explains why there is presently globally no universal single agreed definition of the concept of indigenous peoples.⁵⁸

This thesis does not aim at giving a clear-cut definition of ‘indigenous peoples’. In Africa the concept is even more controversial. Initially the African Commission did not find the term indigenous peoples applicable to African conditions. The counter argument was that ‘all Africans are indigenous to Africa’ and that no particular group can claim indigenous status. The African Commission’s Working Group of Experts on Indigenous Populations, entrusted to examine the concept of indigenous people in Africa, however, asserted that “a strict definition of indigenous peoples is neither necessary nor desirable”.⁵⁹ In view of this, the Working Group instead of defining the concept of indigenous peoples, considered the criteria for identifying indigenous peoples in Africa.

Accordingly, as there is no single definition can capture their identity, the working group outlined possible criteria for identifying who the indigenous peoples and communities in Africa are, *inter alia*, self identification, who are regarded as less developed and less advanced, who live in inaccessible regions, whose ways of life is dependent on access and rights to land and natural resources as well as who have distinct and different cultures and ways of life from the dominant society.⁶⁰

The working group designates hunter-gatherers, pastoralists as well as some small scale farmers as indigenous peoples. For instance, the Pygmies of the Great Lakes Region, the San of Southern Africa, the Hadzabe of Tanzania and the Ogiek, Sengwer and Yakuu of Kenya are mentioned as examples of hunter-gatherer communities who identify themselves as indigenous peoples. Similarly, pastoralist communities such as the Pokot of Kenya and Uganda, the Barabaig of Tanzania, the Maasai of Kenya and Tanzania, the Samburu, Turkana, Rendille, Endorois and

⁵⁸ Bojosi, K. and Wachira, G. (2006): Protecting Indigenous peoples in Africa: An analysis of the approach of the African Commission on Human and Peoples’ Rights, in Frans Viljoen (ed): The African Human Rights Law Journal, Volume 6 No 2, p.393

⁵⁹ Ibid at p.393

⁶⁰ Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities, Submitted in accordance with the Resolution on the Rights of Indigenous Populations/Communities in Africa adopted by the African Commission at its 28th ordinary session (2005),p.89

Borana of Kenya, the Karamojong of Uganda, the Himba of Namibia and the Tuareg, Fulani and Toubou of Mali, Burkina Faso and Niger can all be mentioned as examples of pastoralists who identify as indigenous peoples.⁶¹ As well, the pastoralist communities such as the Afar, Borana, Kereyu (Oromo), Nuer, and Somalis of Ethiopia are also labeled as indigenous peoples.⁶²

For the purpose of this study, the Anywaa community are considered as ‘indigenous communities’ to the region given that the existing literatures⁶³ on the Anywaa ethnic groups labeled them as ‘indigenous peoples’, and different documents⁶⁴ of the government also describe the lived experiences of the Anywaa community in a way that qualify to be ‘indigenous’ to the region, as such some documents unequivocally states those groups of communities as indigenous to the region. Moreover, some domestic enactments⁶⁵ recognize the existence of indigenous peoples in the country.

Furthermore, as already mentioned above, the working groups acknowledged the pastoralist communities, Nuer of the Gambella region as indigenous in view of the possible criteria despite having a more recent history in the region as compared to the Anywaa communities. Thus, it is not as such hard, like Nuer to label the Anywaa communities are qualify to be indigenous to the region as per the possible criteria outlined by the working group, among others, their special

⁶¹ Indigenous Peoples in Africa (2006): The forgotten peoples? African Commission Working Group on Indigenous Populations/Communities Report Summary, p.10

⁶² Ibid at p.15

⁶³ For example, Alexander Meckelburg (2014): Large Scale Land Investment in Gambella, Western Ethiopia-The Politics and Policies of Land, in Mulugeta Gebrehiwot (eds). A Delicate Balance: Land use, Minority Rights and Social Stability in the Horn of Africa; Dereje Feyissa (2013): “Centering the periphery? The Praxis of Federalism at the Margins of the Ethiopian State”; Ethiopian Journal of Federal Studies; Yonas Adaye and Ezra Abate (2014): Conflict dimensions of large scale Agricultural investment in Ethiopia: Gambella Case Study, in Mulugeta Gebrehiwot (eds). A Delicate Balance: Land use, Minority Rights and Social Stability in the Horn of Africa; Dereje Feyissa (2009): A National Perspective on the conflict in Gambella, in Svein Ege, et al (eds). Proceedings of the 16th International Conference of Ethiopian Studies. Trondheim, pp.641-653; Human Rights Watch Report (2012): “Waiting Here for Death” Forced Displacement and Villagization in Ethiopia’s Gambella Region; Oakland Institute (2013): Development Aid to Ethiopia: Overlooking Violence, Marginalization, and Political Repression.

⁶⁴ FDRE Ministry of Federal Affairs, Equitable Development Directorate (2013): Equitable Development Manual: Regions in need of special support strategy; Gambella Peoples’ National Regional State(2003): Villagization Program Action Plan; Gambella Peoples’ National Regional State Bureau of Agriculture and Rural Development (2010): Villagization Program Implementation Manual; Gambella Peoples Regional State Development GAP Assessment Report (2010): Gambella Regional State Development Gap Assessment and Recommendation for Equitable and accelerated Development.

⁶⁵ Development, conservation and utilization of wildlife proclamation No.541/2007, art 2(10), which read as "wildlife reserve" means an area designated to conserve wildlife where indigenous local communities are allowed to live together with and conserve the wildlife”.

relationship to ancestral land (used for economic, social, cultural, and spiritual purpose), being hunter-gatherers, having distinct culture and ways of life as well as regarded as less developed and less advanced. However, indigenous people's rights recognized globally, which Ethiopia is not a state party and without ratification status is not the approach of this thesis to use as a point of reference and to make analysis.

In light of the above background, the section here under is devoted to explore the status of indigenous people's rights, *inter alia*, the right to free, prior and informed consent, the right to land, cultural rights, and the right to development from the standing point of international law and African human rights system.

2.4.2 Right to free, prior and informed consent

Indigenous peoples' right to free, prior and informed consent (FPIC) has been recognized by a number of intergovernmental organizations, international bodies, conventions and international human rights law to varying degrees.⁶⁶

At international level, the only binding international instrument that specifically tackles the concerns of indigenous peoples, the ILO Convention No. 169 refers to the principle of free, prior and informed consent in the context of relocation of indigenous peoples from their land in its article 16. The same instrument, under article 7 recognize indigenous peoples' "right to decide their own priorities for the process of development" and "to exercise control, to the extent possible, over their own economic, social and cultural development". As a common principle, Article 6 of the convention requires that consultation must be undertaken in good faith, in a form appropriate to the circumstances and with the objective of achieving consent to the proposed measure.

As well, in its General Recommendation XXIII on the rights of indigenous peoples, the Committee on the Elimination of Racial Discrimination (CERD) calls upon States to "ensure that members of indigenous peoples have equal rights in respect of effective participation in public

⁶⁶ Tamang, P. (2005): An Overview of the Principle of Free, Prior and Informed Consent and Indigenous Peoples in International and Domestic Law and Practices, p.3

life and that no decisions directly relating to their rights and interests are taken without their informed consent”.⁶⁷

Regionally, within the African human rights system, “even if the African Charter on Human and Peoples’ Rights (ACHPR) does not expressly include indigenous peoples within its ambit, there is no reason why members of these groups should not benefit from the charter’s guarantees either as individuals, or, more importantly, as members of a collectivity”. Furthermore, as per the interpretation of the concept of ‘peoples’ by the African Commission on Human and Peoples’ Rights(African Commission), indigenous peoples should as a matter of principle be eligible to claim as ‘peoples’.⁶⁸

The ACHPR has not included explicitly vis-à-vis the principles of free, prior, and informed consent in its ambit. Accordingly, the principles of free, prior, and informed consent have not yet been incorporated into national policy in any African country. However, several African countries have enacted a legislation that requires at least some level of consultation from local and affected communities.⁶⁹ However, consultation to the concerned peoples should be done prior to the proposed measure and even during the design stage, to ensure that indigenous peoples’ views are taken into consideration. Besides, it should be conducted in good faith with consent of the concerned peoples through appropriate procedures and institutions that are representative of the indigenous peoples themselves.⁷⁰

2.4.3 Right to Land

Land and resource rights are indisputably core claims by indigenous peoples globally. This is due to the fact that indigenous peoples mainly rely on traditional lands and natural resources for their livelihood, economic sustenance, as well as religious and cultural life.⁷¹ Accordingly, the

⁶⁷ CERD General Recommendation No.23: Concerning Indigenous Peoples, adopted at fifty-first session, 1997, Para. 4 (d)

⁶⁸ Viljoen, F.(2010): Reflections on The Legal Protection of Indigenous Peoples’ Rights in Africa, in Solomon Dersso (eds), Perspectives on the Rights of Minorities and Indigenous Peoples in Africa,p.85

⁶⁹ Vermeulen, S. and Cotula, L. (2010): Over the Heads of Local People: Consultation, Consent, and Recompense in Large-scale Land deals for Bio-fuels Projects in Africa, The Journal of Peasant Studies,p.907

⁷⁰ Wachira, G. (2010): Indigenous Peoples’ Rights to Land and Natural resources, in Solomon Dersso (eds), Perspectives on the Rights of Minorities and Indigenous Peoples in Africa,p.337

⁷¹ Supra note 70 at p.299

recognition of the rights of indigenous peoples to the ownership, control and management of their traditional territories, lands and resources is imperative. From the international standpoint, land and natural resources rights of indigenous peoples are recognized in the ILO Convention No.169. Specifically, the land rights provisions of the ILO Convention No. 169 are framed by Article 13(1), which states:

In applying the provisions of this part of the convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.⁷²

Furthermore, the ILO Convention No.169 vis-a-vis indigenous peoples obliged states to give legal recognition and protections to use their lands in its article 14(1) which reads as;

The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.⁷³

Similarly, in its General Recommendation XXIII on the rights of indigenous peoples, the CERD calls up on states to “recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources, and where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories”.⁷⁴

⁷² ILO Convention No. 169, article 13(1)

⁷³ Ibid, article 14(1)

⁷⁴ Supra note 67, Para.5

At the regional level, cognizant that land is the basis for the lives, cultures and identities of indigenous peoples, the ACHPR (under Articles 20, 21 and 22), states clearly that all peoples have the right to existence, the right to their natural resources and property, and the right to their economic, social and cultural development.⁷⁵

2.4.4 Cultural Rights

The right of indigenous peoples to enjoy their own culture is important in a development context. However, violation of cultural rights is a particular form of human rights violation suffered by indigenous peoples. Such violations of cultural rights take different forms. For instance, the loss of key productive resources is impacting negatively on indigenous peoples' cultures, denying them the right to maintain the livelihood of their own choice and to retain and develop their cultures and cultural identity according to their own wishes.⁷⁶ Consequently, indigenous peoples' preservation of their culture and historical identity has been and still is jeopardized.⁷⁷

Nevertheless, cultural rights of indigenous peoples are articulated under the core international human rights instruments. For instance, although article 27 of international covenant on civil and political rights (ICCPR) does not expressly mention indigenous peoples, according to the Human Rights Committee, its provisions are applicable to these groups.⁷⁸

Accordingly, with regard to the exercise of the cultural rights protected under article 27 of ICCPR, the Committee noted that culture manifests itself in many forms, including a particular way of life associated with the use of lands and natural resources for their traditional activities as fishing or hunting, in particular to indigenous peoples.⁷⁹ Furthermore, in its General Recommendation XXIII on the rights of indigenous peoples, the CERD calls up on states to “recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation” and “provide

⁷⁵ African (Banjul) Charter on Human and Peoples' Rights

⁷⁶ Supra note 61,p.18

⁷⁷ Supra note 67, Para.3

⁷⁸ Human Rights committee General comment No.23: The rights of minorities (Art.27), adopted at Fiftieth session, 1994, Para.3

⁷⁹ Ibid,Para.7

indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics”.⁸⁰

The ACHPR, which also entrenches the right to culture and identity of all peoples under its article 22 (1) which reads as;

All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.⁸¹

2.4.5 The Right to development

The right to self-determination, as defined in Article 1 of both International Covenants of Human Rights, refers to the right of all peoples “to freely pursue their economic, social and cultural development”.⁸² As per this provision, for the indigenous peoples, the right to self-determination is more a reflection of “the right to define and decide on their own development priorities through participating in the formulation, implementation and evaluation of plans and programs for national and regional development activities that may affect them.”⁸³ Being aware of the collective nature of the rights and interests of indigenous peoples, the CERD provides guidelines regarding the participation of indigenous peoples in development activities. Accordingly, indigenous peoples have “equal rights in respect of effective participation in public life and that no decision directly relating to their rights and interests are taken without their informed consent.”⁸⁴

⁸⁰ Supra note 67, para. 4 (a and c)

⁸¹ Supra note 75, article 22(1)..... African (Banjul) Charter on Human and Peoples' Rights

⁸² International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976; International Covenant on Civil and Political Rights (ICCPR), G.A. U.N.T.S.171, entered into force Mar. 23 1976. Article 1.

⁸³ United Nations Development Group (2009): Guidelines on Indigenous Peoples Issues, p.15

⁸⁴ Supra note 67, para. 4(d)

On the face of it, the ACHPR stipulates relevant provision which obliged states towards indigenous people's right to development which enunciates "states shall have the duty, individually or collectively, to ensure the exercise of the right to development".⁸⁵

2.5 Indigenous Peoples' Rights: Under the Ethiopian Legal System

Despite the controversy on the authenticity of the process of identification of certain peoples as indigenous in their territories, the Working Group has also identified some indigenous peoples in Ethiopia.⁸⁶ Although the FDRE constitution does not employ the phrase 'indigenous people' in its ambit, they are eligible to claim the rights afforded to nations, nationalities and people. Nonetheless, domestic enactments, for instance Development, Conservation and Utilization of Wildlife Proclamation No.541/2007⁸⁷ have mentioned indigenous peoples signifying their recognition in Ethiopia.

Taking this as a background, this section is dedicated to the exploration of constitutional provisions that have implications for indigenous people's rights, *inter alia*, the right to consultation, the right to land, cultural rights, and the right to development.

2.5.1 The Right to Consultation

The right to consultation has got constitutional basis under article 43(2) and 92(3) of the FDRE constitution. For instance, article 43(2) states that "nationals have the right to be consulted with respect to policies and projects affecting their community". And the other provision which enunciates the right to consultation is article 92(3) which reads:

⁸⁵ Supra note 75, article 22(2)

⁸⁶ The Working Group identified the Afar, Borena, Kereyu (Oromo), Nuer and Somalis, as indigenous peoples in Ethiopia (see: Indigenous Peoples in Africa (2006): The forgotten peoples? African Commission Working Group on Indigenous Populations/Communities Report Summary, p.15).

⁸⁷ Under Article 2(10) states "wildlife reserve means an area designated to conserve wildlife where 'indigenous local communities' are allowed to live together with and conserve the wildlife".(see: Development, Conservation and Utilization of Wildlife Proclamation No.541/2007, art 2(10)).

People have the right to full consultation and to the expression of views in the planning and implementation of environmental policies and projects that affect them directly.⁸⁸

Similar to ACHPR, the FDRE constitution also has not included the principles of free, prior, and informed consent in its ambit. However, the right of local communities to prior informed consent is recognized in proclamation to provide for Access to Genetic Resources and Community Knowledge and Community Right.⁸⁹

2.5.2 The Right to Land

The Constitution prescribes the right to private ownership of property of every Ethiopian citizen. However, the right to land and natural resources therein are exclusively vested in the State and the peoples of Ethiopia.⁹⁰ Whereas, concerning the pastoralists and agro-pastoralist of the lowland areas, article 40(5) stipulates that Ethiopian pastoralists have the right to free land for grazing and cultivation, and are also guaranteed against displacement from their possession.⁹¹

2.5.3 Cultural Rights

The cultural rights of nations, nationalities and people, is recognized under article 39 of the FDRE Constitution which guarantees the cultural rights of all nations, nationalities and peoples', in addition to the obligation of the State to protect and preserve historical and cultural legacies.⁹²

⁸⁸ The FDRE constitution, article 92(3)

⁸⁹ Under Article 7(1):The right of local communities to regulate access to their community knowledge shall include the following: (a), the right to give prior informed consent for access to their community knowledge; (b),when exercising the right to give prior informed consent, the right to refuse consent when they believe that the intended access will be detrimental to the integrity of their cultural or natural heritages;(c), the right to withdraw or place restriction on the prior informed consent they have given for access to their community knowledge where they find out that such consent is likely to be detrimental to their socio-economic life or their natural or cultural heritages;(d), the right to demand the restriction or withdrawal of the prior informed consent given by the Institute for access to their genetic resources where they found out that is likely to be detrimental to their socio-economic life or their natural or cultural heritages.(see: A Proclamation to Provide for Access to Genetic Resources and Community Knowledge and Community Right Proclamation No. 482/2006).

⁹⁰ Supra note 88, article 40 (1 and 3)

⁹¹ Ibid, article 40(5)

⁹² Ibid , article 39(2) and 41(9)

Apart from the constitutional framework, the cultural rights of nations, nationalities and people have asserted in the Genetic Resources and Community Knowledge proclamation. Despite the Proclamation makes no mention of indigenous peoples, but local communities, under Article 13 of the Proclamation provides the condition by which the institute can deny access to local communities genetic resources where such access has adverse effects on their cultural values.⁹³ Indeed, as explicitly stated the contents of access agreement must respect their cultural practices, traditional values and customs.⁹⁴

2.5.4 The Right to development

The FDRE constitution acknowledged the right to development of nations, nationalities and peoples' and provides particular provisions in a way to realize. Accordingly, the reflection of the right to development of nations, nationalities and peoples' are understood through the right to improved living standards and to sustainable development, which is affirmed under article 43(1) of constitution and the nations, nationalities and peoples' to take part in the national development process, and also to be consulted in policies and projects affecting themselves.⁹⁵

⁹³ Proclamation to Provide for Access to Genetic Resources and Community Knowledge and Community Right Proclamation No. 482/2006, article 13 (2).

⁹⁴ Ibid, article 17(17).

⁹⁵ Supra note 88, article 43 (1 and 2)

CHAPTER THREE

FINDINGS AND DISCUSSIONS

VILLAGIZATION IN ANYWAA ZONE, GAMBELLA REGION

3. Background of the Study Area

3.1 Location

Gambella Peoples National Regional State (GPNRS) is one of the nine regional states established in 1994 by the new constitution of Ethiopia that created a federal system of governance. GPNRS is found in the south-west of Ethiopia, about 766 Km from Addis Ababa. It is situated in the lowlands of the Baro-Akobo River Basin between latitudes 6⁰ 22' and 8⁰30'N, and longitudes 33⁰10' and 35⁰ 50' E. Gambella is bordered by the Republics of Sudan and South Sudan in the southwest, northwest, and north; the Southern Nation and Nationalities Peoples' Regional State (SNNPRS) in the south, southeast and east; the Oromia National Regional State in the north, northeast and east; and the Benishangul-Gumuz National Regional State in the north.⁹⁶

The region has a total surface area of about 34,068 sq. km. The settlement pattern of the region is dispersedly populated, with a population density reaching as low as 7.7 persons per square kilometer. The region is characterized by flat topography and a significant part of the region is susceptible to flooding.⁹⁷

3.2 Climate

The GPNRS is characterized with different climatic features. Lowland and midland agro-ecological zones characterize the region's climate. Annually, the region's mean annual rainfall varies from *woreda* to *woreda*: 9000-1500 mm in the lowland area and 1900-2100 mm in midland *woredas* .The annual rain fall has uni-modal occurrence and is erratic in distribution.

⁹⁶ GPNRS President Office (2013): Gambella in Reality: Document on general Information about Gambella National Regional State.

⁹⁷ GPNRS Bureau of Finance and Economic Development (2008): Socio-Economic Survey report.

The main rainy season in the region is from mid-May to October. In addition the mean annual temperature varies from 17-30 °c in the mountains to 28-30 °c in the plain.⁹⁸

3.3 Population

There are five indigenous ethnic groups in the GPNRS namely; Anywaa, Nuer, Megang, Komo and Opo which constitute 72% of the total population. Besides, other nations, nationalities and peoples who are settlers and coming from high lands living together collaboratively, in harmonization and synchronization.⁹⁹

According to the 2007 census conducted by the Central Statistical Agency of Ethiopia (CSA), the GPNRS has a total population of 307,096. The Nuer numbered 143,286(46.66%), the Anywaa,64,984(21.14%),the highlanders,83,510(27.19%), the Majang,12,280 (3.99%), and the Opo and Komo combined,1,214(0.39%).Of which 74.6% are living in the rural areas of the region and 25.4% of the population are urban dwellers. In terms of sex composition, 52% are males and 48% are females. Administratively the region is divided in to three Nationality zones, thirteen woredas, and one town administration. The Anywaa zone: consists of Gog, Abobo, Jor, Gambella, and Dima *woredas*. The Nuer zone consists of: Jikaw, Lare, Makuey, Wanthowa and Akobo *woredas*. Mejang zone consists of: Meti and Mengeshi. In addition to these, Itang special woreda and the Gambella town Administration are among the fourteen *woredas* of the region. They all comprise a total of 258 *kebeles*.¹⁰⁰

Accordingly, the villagization program has been implemented in the region covers *kebeles*/communities within all zones, special woredas and woredas of the region vulnerable to various natural and manmade disasters, engaged in dispersed settlement and shifting cultivation practices. As indicated (section 1.7), from the three zones of the region, where the villagization program was undertaken, the focus of this study is the Anywaa zone with particular reference to Abobo *woreda* and Gambella *woreda*. From the 4 and 6 villages established in the first round in

⁹⁸ Ibid

⁹⁹ GPNRS GAP Assessment report (2010): Gambella Regional State Development Gap Assessment and Recommendation for Equitable and accelerated Development.

¹⁰⁰ Supra note 96

Abobo and Gambella *woreda* respectively, the researcher visited villages of Chebokir *Kebele*¹⁰¹ (Abobo *woreda*) and Opagna *Kebele*¹⁰² (Gambella *Woreda*).

3.4 Procedural Issues: Consultation and the Villagization program

As indicated in the section dealing with the right to free, prior and informed consent of indigenous peoples, in its General Recommendation XXIII on the rights of indigenous peoples, which stresses the importance of ensuring the “informed consent” of indigenous peoples, the CERD calls upon States to “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent”.¹⁰³ Therefore, the committee’s recommendation imply, state parties are obliged to give due consideration for securing informed consent and ensuring effective participation of the indigenous peoples concerned to the proposed measure before taking place.

At the same time, the CESCR on report of Columbia in relation to traditional lands, in its concluding observation, noted “with regret that the traditional lands of indigenous peoples have been reduced or occupied, without their consent, by timber, mining and oil companies, at the expense of the exercise of their culture and the equilibrium of the ecosystem.” The committee subsequently urged “to consult and seek the consent of indigenous peoples concerned prior to the implementation of timber, soil or subsoil mining projects and on any public policy affecting them.”¹⁰⁴

¹⁰¹ Found in the southern direction of the region (in Abobo *woreda*), about 5 Km from the *woreda* and 40 Km from Gambella town. The total land mass of the *kebele* about 87516.82 ha, a total population of 729. Of which a total of 121 households was relocated because of the program. Their livelihood system is depending on crop production, fishing, hunting, and collection of wild food.

¹⁰² Found in the West of the region (in Gambella *woreda*), about 20 Km from the *woreda* and 35 Km from Gambella town. The *kebele* inhabited by a total population of 633. Of which a total of 143 households joined villages. Their livelihood system is depending on mixed farming, fishing, hunting, and collection of wild food.

¹⁰³ *Supra* note 67, para.4(d)

¹⁰⁴ Concluding Observations of the Committee on Economic, Social and Cultural Rights: Colombia 30/11/2001: The CESCR considered the fourth periodic report of Colombia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.6) at its 61st and 62nd meetings, held on 14 November 2001 (E/C.12/2001/SR.61 and 62), and adopted, at its 85th and 86th meetings (E/C.12/2001/SR.85 and 86), held on 29 November 2001.

Gambella region's VVP has been taking place under the guise of improving the lives of the people who are leading a scattered way of life. To this end, the villagization program implementation manual explicitly puts "voluntary", among other principle, which signifies the program implementation merely based on the willingness, consultation and cooperation in good faith with the communities concerned. However, the HRW report indicates that the villagization program taking place in the Gambella region is characterized by forcible moving of indigenous peoples from their homes, situated at their own ancestral land to new villages without meaningful consultation, including intimidation, arrest and beatings to those who refused to move.¹⁰⁵

In contrary, during in time of data collection, both at the federal and regional level officials, who were interviewed, disagree with the above statement made by HRW, and contend that there was no any forced displacement of the indigenous peoples from their ancestral land, rather joining to villages was carried out through various consultations conducted with the concerned communities. For instance, according to Addisu Haleko, villagization program coordinator of the GPNRS, consultations were conducted at different levels, starts from the political leaders from the top to the *woreda* and *kebele* level administration as well as with the target communities at the grass roots level. He further explained that, after awareness creation about the program on the part of officials represented at regional level, various consultations at different times were conducted with tribal leaders, youth, and women by using influential local elders, who were members of the *kebele* villagization committee.¹⁰⁶ However, as indicated by Kedir Yasin, Ministry of Federal affairs, Equitable Development Directorate Deputy General, given the negative propaganda against the program, the consultation took much time to persuade the target communities.

Similarly, participants of the focus group discussions with selected villagers of Chebokir *kebele* and Opagna *kebele* indicated that, officials, who came from federal and *woreda* level together with *Kebele* administrators, discussed the issue and tried to convince the communities to join villages, but at the early period the communities refused, thinking that the program will not

¹⁰⁵ Supra note 21 at p.29

¹⁰⁶ Interview with Ato Addisu Haleko, GPNRS villagization program coordinator, February 12,2014

benefit them. They further explained that, after various consultations were conducted with the target communities and due to the fact that the place where the communities were asked to move to was inhabited by their ethnic folks, and that it has relatively better social services, the communities agreed to join the new villages.

According to Ogula Ojulu, Head of Anywaa zone, villagization was done through discussion with various sections of communities. He cited as evidence by taking the villagers effective participation in the program implementation, by saying:

The very purpose of the program is for the benefit of the communities who were living in a risk area vulnerable to disease and flooding. Due to this fact, the villagers joined villages (even if it took much time to convince) because of their willingness, particularly from Chebokir *Kebele*. But, the fact that some individuals, found in Perpengo and Terkudi refused to join villagization sites, and they were not forced to move, given the program is based on the interest and willingness of the communities. Evidently, in the other villagization centers, there was genuine participation of communities in any issues, among others, clearing sites, site selection and even claiming to change sites identified by studies by saying the areas are swamp in rainy season, providing inputs and constructing their own houses (“*abile*” in Anywaa language) as well as participating in evaluating program implementation and supervision.¹⁰⁷

Similarly, the Chebokir *kebele* administrator, Ato Obang Okogn stated that, when the Farmers Training Center (FTC) was constructed, the community contributed a lot from the initial stage up to its completion. In addition, he also indicated that, the communities were involved in cutting trees and grasses for clearing sites as well as constructing their own homes (“*abile*”).

With regard to the response of the government to those who refused to go in to villagization center, Ato Ojulu Ojulu, Head of Gambella *woreda* confirmed that, some households refused. He further told the researcher by taking Opagna *kebele* as case in point, where some community members returned back to their original settlement areas. But, to get access to social services

¹⁰⁷ Interview with Ato Ogula Ojulu, Head of Anywaa zone, February 15,2014

(like; schooling, clean water, health services), they are used to come from their areas to the villagization centers given that it is impossible to provide the service in their scattered way of settlement.¹⁰⁸

Therefore, the data collected from the different angle, public officials interviewed on the one part and focus group discussants from Chebokir and Opagna villages on the other revealed that, consultations were conducted with the concerned communities at different times, till obtaining willingness to the program despite the communication method chosen were in a top-down fashion i.e. the community consultation was confined to local elders, officials and elites. Conversely, consultation with concerned communities should be carried out under conditions, among others, through appropriate procedures and in particular through their representative institutions, in good faith and with the objective of achieving agreement to the proposed measures¹⁰⁹, prior to the proposed measure and provides greater voices for affected communities within the process.¹¹⁰

However, given the silence of the legal framework which lacks to explicitly spell out conditions or standards to be considered in consultation process, the villager's right to be consulted was characterized by the approach of convincing them in a way that the government desires. Thus, the writer of this study came to the conclusion that, the implementation of the villagization program in the study villages were executed by inadequate or lack of proper consultation with the target communities.

¹⁰⁸ Interview with Ato Ojulu Ojulu, Head of Gambella woreda, February 19, 2014

¹⁰⁹ ILO Convention No. 169, article 6(1),a and 6(2)

¹¹⁰ Supra note 70,p.337

3.5 Redistributive Issues: Compensation and the Villagization program

“Lands and territories have material, cultural and spiritual dimensions for indigenous peoples. They are required for their survival and economic sustainability and are intrinsically linked to the identity and existence of a people.”¹¹¹ However, where the commitment of national laws and legislations are poor, to pay attention for human rights of indigenous peoples in terms of the individual and collective right dimensions, the issues of land and natural resources are often at the heart of the tensions between indigenous communities and states, and recurrently the source of human rights violations.¹¹²

However, the international human rights instruments that currently exist pertaining to the rights of indigenous peoples, accredited that, indigenous peoples’ lands and territories should be legally recognized, demarcated and protected from outside pressures. Indigenous peoples have rights to lands used traditionally (e.g., nomadic peoples, shifting cultivators, etc.) , and further states are obliged to recognize the traditional management systems of indigenous peoples as well as where the concerned peoples lands have been lost for the purposes of national development, restitution or redress should be made.¹¹³ Accordingly, in its General Recommendation XXIII on the rights of indigenous peoples, which emphasized the need to make restitution by the state, the CERD calls up on state parties to:

“Recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.”¹¹⁴

¹¹¹ Supra note 83 at p.18

¹¹² Ibid at p.16

¹¹³ Ibid at p.15

¹¹⁴ Supra note 67,para.5

At the same time, the FDRE constitution in its provision of the right to property, under article 40(9), which reads as “.....the government may expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property.” However, this provision of the constitution, having a look at, ‘private property’, merely gives compensation, where a property deemed as private property, or the property he/she builds by his/her labour or capital¹¹⁵. As well, FDRE Expropriation Proclamation 455/2005, under article 3(1) entitles the government, “.....upon payment in advance of compensation, to expropriate rural or urban landholdings for public purpose where it believes that it should be used for a better development project to be carried out by public entities, private investors, cooperative societies or other organs”.¹¹⁶

Based on the above legal framework at the national level, when we see the issue of compensation consideration to the villagers, some regional officials interviewed, underscore that, there was no compensation made to the villagers. For instance, Ato Seid Mendis, Gambella Region Equitable Development Director, expressed as follow about the issue of compensation in a way that he describes ‘it was unthinkable to claim’:

“As far as the program objective is, bringing households to a central village as a way to provide effective and efficient service delivery and to improve the lives of the people, who were exposed to manmade and natural disaster, and were deprived to get access to social services. Furthermore, it is evident that their original settlement belongs to themselves, or not claimed by the government for public purpose, and even to the extent that they are entitled the right to return back to the riverbanks from the village centers at whatever time”.¹¹⁷

Accordingly, it is true, what has been indicated in the HRW report, that the indigenous peoples were not compensated. At the same time, the government is not denying it and justified it on the ground given that the initial aim of the program is for the benefit of the target communities.

¹¹⁵ As per FDRE constitution, article 40(7): “Every Ethiopian shall have the full right to the immovable property he builds and to the permanent improvements he brings about on the land by his labour or capital. This right shall include the right to alienate, to bequeath, and, where the right of use expires, to remove his property, transfer his title, or claim compensation for it.”

¹¹⁶ Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No 455/2005, article 3(1)

¹¹⁷ Interview with Ato Seid Mendis, Gambella Region Equitable Development Director, February 12,2014

Furthermore, as explicitly articulated under the Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation, the government is obliged to give compensation where, the land expropriated is used for public purpose¹¹⁸, and it is true that the researcher, from his personal observation, did not find practical evidence that the original settlement area is used for public purpose, rather it is being used as farming areas to the villagers themselves.

This is also confirmed by the focus group discussants; in the villagization program implementation, there was no compensation made to the villagers. And, the participants further clarified the reason, their original settlement area as well as the farm land is under their control. As such some villagers who were disinterested also returned to the previous settlement areas, for instance, some villagers in Opagna *Kebele* returned back to the riverbanks, thinking that the given settlement area was not enough and they require homes constructed by government to join villages.

One thing that is obvious from the above explanations, and as it was reported from the officials interviewed and FGD participants, together with the researcher empirical observation, there is no pragmatic evidence to substantiate the claim that the aim of the villagization program was intended to displace the communities from their ancestral land and to use it for public purpose or for land investment. Therefore, the researcher came to a conclusion, with particular reference to the dwellers of Chebokir and Opagna villages; giving compensation is not justifiable as well as has no legal status. Moreover, the legal framework articulates nothing regarding to providing compensation for communal land tenure. Indeed land ownership is not subject to private ownership¹¹⁹, and the original settlement area is not claimed by the government for public purpose.

¹¹⁸ According to Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No 455/2005, defines public purpose defined as: “The use of land defined as such by the decision of the appropriate body in conformity with urban structure plan or development plan in order to ensure the interest of the people to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.”

¹¹⁹ The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange (Article 40(3) of FDRE constitution).

3.6 Cultural Practices in the new Villagization sites

Cultural rights are among the collective rights acknowledged for indigenous peoples. Accordingly, the right of indigenous peoples to enjoy their culture is important in a development context. As indicated in the section (see 2.4.4) dealing with the cultural rights of indigenous peoples, under article 27, the Human Rights Committee jurisprudence has illustrated that there exists a close nexus between indigenous people's culture and their traditional forms of economic life, supported by their lands and natural resources. Indeed, in its General Comment No. 23 on ICCPR article 27, with regard to the exercise of the cultural rights protected under article 27, the committee recognizes that "culture can manifest itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law".

At the same time, at the national legislation, which is relevant to the cultural rights of nations, nationalities and peoples of Ethiopia enshrined under the FDRE constitution, in its article 39(2), articulated as "nations, nationalities and peoples have the right to promote and develop their own culture".

In light of this background, when we examine the cultural practices of the villagers in the new villagization sites as compared to before the program, FGD participants indicated that, the villagization program did not hinder them from practicing their cultural practices. However, officials interviewed, for instance, Ato Pinykew Ojulu, Regional Culture and Tourism Bureau; Culture Sector, Core Process Owner, indicate that there was nothing planned to be done from the very beginning: Given that the Bureau of Culture and Tourism has been independently institutionalized recently in 2003 E.C, when the villagization program began, and in the villagization program implementation manual, not included as members of the steering committee.¹²⁰

¹²⁰ Interview with Ato Pinykew Ojulu, Regional Culture and Tourism Bureau; Culture Sector, Core Process Owner, February 21,2014

At the same time, w/ro Achalla Didumo, Abobo *woreda*, Culture and Tourism Bureau Head, explained that, when the villagization program was undertaken, experts from our bureau to a lesser extent helped the *woreda* villagization program steering committee, but due to the fact that the bureau was established recently and having budget problem, and lack of experts hindered us to participate in different activities of the villagization program.¹²¹

Although the activities carried out by the Bureau of Culture and Tourism both at the regional and *woreda* level has been lesser, the researcher asked a question, i.e. whether the villagization program threatened the sustainability of the cultural practices of the villagers or not. And, accordingly, Ato Oguta Adiw, Culture Studies, Research officer, stated that, the villagization program does not have a negative implication for the villagers to sustain their cultural practices. He further clarified how the program does not threaten in sustaining cultural practices, by saying, “cultural practices are more realized when groups of individuals are living together, indeed the program has positive implication”.¹²²

The discussants of the FGD, for instance, the villagers of the Chebokir *Kebele*, explained that, they are practicing the cultural practices in the way that it was before the villagization program. It was further reported in the discussion, the program contributed significantly to the cultural practices. They cite as evidence such cultural practices as ‘kurumma’,¹²³ ‘Ajwak’,¹²⁴ and ‘Akurbuk’,¹²⁵ are practiced by the communities in a good manner. They explained that the communities are being collected together as opposed to their previous scattered settlement, and indeed those mentioned cultural practices require more people in the ceremony.

¹²¹ Interview with W/ro Achalla Didumo, Abobo *woreda*, Culture and Tourism Bureau Head, February 15,2014

¹²² Interview with Ato Oguta Adiw, Culture Studies, Research officer, February 21,2014

¹²³ Is a cultural dance in the Anywaa community; performed by males and females through making their respective side and dancing by selecting a partner. Whenever, a male or a female wants to select a partner, she/ he should go to the opposite row and selects a partner. As such in this event, either a male or female can look for his/her fiancé.

¹²⁴ Is a kind of cultural practice; for the purpose of collecting money or cultural materials by villagers or a certain groups of communities.

¹²⁵ Is a cultural healing technique; a kind of dance in which males and females insult each other. This is not done simply but to heal someone cursed. So, when males and females insult each other, the healer starts to remove the bad spirit from the body of the cursed.

Therefore, from the above elucidation given by the villagers, who are right holders, the researcher at some point deduced, given the fact that, the villagization program does not so far resulted on the degradation of their entire way of life, including their traditional forms of economic life, as stated by the Human Rights committee¹²⁶ and loss of their natural wealth and resources as well as their cultural identities, the villagization program does not have negative implications to the villagers in practicing their cultural practices in the new villagization sites. As such the extent of cultural practices entertaining by the villagers in the new villagization sites is equivalent to their previous settlement areas.

3.7 Access to basic Social services: Before and after the Villagization Program

As already mentioned in the section dealing with overview of the current villagization program (see section 2.2.2), one of the underlined rationales behind the villagization program in the region is to enhance the expansion and quality of socio-economic infrastructure development. Accordingly, the section here under discusses the basic social services put in to place in the new villagization sites of Chebokir and Opagna *Kebele*, with specific reference to education, health service, and clean water.

3.7.1 The Right to Education

“Education refers to the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge”.¹²⁷ In view of this, the right to education is affirmed under the Universal Declaration of Human Rights

¹²⁶ “With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting”.

¹²⁷ The Recommendation concerning Education for International Understanding, Cooperation and Peace and education relating to Human Rights and Fundamental Freedoms, adopted by the General Conference of UNESCO at its 18th session(November 1974) Article 1(a). Cited by Girmachew Alemu and Yonas Birmeta(2012): Handbook on the Rights of the Child in Ethiopia,p.225

(UDHR) under article 26¹²⁸, and in the ICESCR in its article 13 and 14¹²⁹. Furthermore, achievement of universal primary education is also one of the eight Millennium Development Goals (MDGs). Accordingly, at the national level, under the five year education sector development program, “expanding access to quality primary education for all and quality secondary education that will serve as a basis and bridge to produce a middle and higher level workforce in line with the demand of the national economy”¹³⁰, stated as, among others, objectives of the general education.

Accordingly, Ato Obang Okogn, Chebokir *Kebele* administrator, stated that before the villagization program children had to go long distance to get access to education. In contrast, after the program, given the fact that villagers are settled near the basic social services, children are getting educational services within 5 minutes walking distance from their houses.¹³¹ This is also confirmed by the FGD participants; they explained that, before the program, their children used to go not less than 2hrs to attend schooling, and due to this, children were not interested to learn as well as there was high dropout rate. It was further reported by the participants, given they are settled around the school, at the present their children are being educating, and interested to go to school.

As can be seen from the following picture, in the two villages of Chebokir and Opagna visited by the researcher, the following are the primary schools established before the villagization program.

¹²⁸ “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.”

¹²⁹ ICESCR, article 13(1)... “The state parties to the present covenant recognize the rights of everyone to education. They agree that education shall be directed to the full development of the human personality and shall strengthen the respect for human rights and fundamental freedoms.” And, article 14..... “Each state party to the present covenant which, at the time of becoming a party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.”

¹³⁰ Supra note 14 at p.51

¹³¹ Interview with Ato Obang Okogn, Chebokir Kebele administrator, February 24,2014



Figure 1: Primary School in Chebokir village (left) and Primary School in Opagna village (right), Field Photo taken, February, 2014

Interview with Ato Choul Ojato, Opagna *Kebele* administrator indicates that, before the villagization program the grade level was from Grades 1-4, but now from Grades 5 -7 are added. He further stressed that at present the school needs maintenance, and it is also evident from the researcher field observation, the school is in need of repair as well as the facilities required to be fulfilled are poorly provided (see figure 2 below).



Figure 2: Primary School in Opagna village, inside view, Field Photo taken, February, 2014

Similarly, Ato Obang Okogn, Chebokir *Kebele* administrator stated that the school facilities necessary for the teaching-learning process are not fulfilled. Thus, as per the information obtained from the FGD participants, informants, and field observation, the writer came to a conclusion, given the school situated near to the villagers home contributed children inspiration to go to school and make the dropout rate lower, and it could be considered as creditable part of the villagization program. However, the poor provision of facilities including tables, chairs, blackboard, text-books and other necessary teaching materials are still challenging for children to get better education.

3.7.2 The Right to Health

Health is a fundamental human right indispensable for the exercise of other human rights. The human right to health is recognized in numerous international instruments; *inter alia*, UDHR, ICESCR, CERD, CEDAW, CRC, and in regional instrument such as ACHPR. In its General Comment No. 14, on the right to the highest attainable standard of health, the committee noted that the right to health contains four elements¹³². In this regard, at the country level, under the health sector development program, improving the health of the population through enhancing access and quality of health services¹³³ is indicated as a major objective.

Taking the objective of health sector development program as a backdrop, when we see the villager's access to health services after the villagization program, as revealed in the interview with health extension worker revealed that, prior to the villagization program, the communities suffered a lot in access to health services given their scattered settlement, especially pregnant women, who were deprived of anti-natal delivery and post-natal care. She further, indicated that, by now, due to the villagization program and the fact that they are near to the health post, the villagers are getting health services, and she cites in particular the pregnant women are using services include vaccination, anti-natal care, post-natal care, delivery, and medical checkup.

¹³² These are; Availability: refers functioning public health and healthcare facilities, goods and services, as well as programmes, have to be available in sufficient quantity. Accessibility: Health facilities, goods and services accessible to everyone, within the jurisdiction of the State party. Acceptability: All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, as well as sensitive to gender and life-cycle requirements. Quality: Health facilities, goods and services must be scientifically and medically appropriate and of good quality (See General Comment No. 14 (2000): The Right to Health, adopted by the UN Committee on Economic, Social and Cultural Rights, para.12).

¹³³ Supra note 14 at p.56

However, with respect to the service rendered by the health post, the FGD participants, villagers from Opagna indicated that, as compared to pre villagization, at present they are getting some medication from the health post. But they expressed their concern to the researcher that the service delivered is not just like what has been promised. It was further reported in the focus group discussions, there is lack of experts; having only one health extension worker and shortage of medicine, medical equipments and instruments in the health post defying them to get better health service. Accordingly, they told the researcher, most commonly treated disease at the health post only malaria, because ‘*quartem*’ is the only drug available in the health post. At the same time, the service provided by the health post is true in Chebokir *kebele* too as FGD participants explained.

Furthermore, it was also reported by the respondents in the discussion, given that lack of professionals on the area and an acute shortage of medicine, patients are used to go to Gambella hospital for serious treatment. The researcher also observed the health posts of Chebokir and Opagna villages, and the standard of construction is acceptable despite the focus group discussants’ portray “only the building is put in place at the absence of professionals and medicine”.



Figure 3: A Health post in Chebokir village (left) and Health post in Opagna village (right), Field Photo taken, February, 2014

Therefore, taking in to account the service provided by the health posts, when it is evaluated as per the core elements of the right to health¹³⁴, despite merely physical existence of the health post the existing services are beneath to the human rights standards. Thus, the researcher came to a conclusion; the villager's right to access health services is at stake.

3.7.3 The Right to Water

Access to safe and clean water is indispensable human right that is essential for the full enjoyment of life and a prerequisite for the realization of all other human rights. Accordingly, the right to water was explicitly recognized as a fundamental human right by the CESCR.¹³⁵ Prior to this, the right to water was only mentioned in the Convention for the Rights of the Child (1989) and the Convention on the Elimination of all Forms of Discrimination against Women (1979). Unquestionably, the human right to water is, for instance, a compulsory precondition for the realization of the right to an adequate standard of living(Article 11,ICESCR), the enjoyment of the highest attainable standard of physical and mental health(Article 12, ICESCR) and the right to life (Article 6, ICCPR).

Likewise, at the national level, the important provision in this regard is Article 90 (1)¹³⁶ of the FDRE constitution which lays the duty and authority on the government to fulfill the right to clean and safe drinking water to all citizens. Besides, providing adequate and clean water to the population, which in turn helps to progress in economic and social development, as well as improve population quality of life and ultimately to eradicate poverty, is indicated as the main objective of the water sector development plan.¹³⁷

Thus, the fulfillment of access to clean and safe drinking water is one of crucial rights to be given full consideration in the villagization program. Accordingly, when we see the realization of the right to clean water in the villages visited by the researcher, the FGD participants from Chebokir and Opagna villages reported that, when they were in the previous settlement area

¹³⁴ Supra note 132

¹³⁵ Committee on CESCR, General Comment No. 15 (2002): Concerning the right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights),para. 1

¹³⁶ "To the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security".

¹³⁷ Supra note 14 at p.11

around the riverbanks, they used to drink from the near baro river, which was not clean and most of them were vulnerable to water born diseases. In this regard, the FGD participants told the researcher in a way that ‘the most successful in the name of the villagization program’, and reported that at present they are in a better access to clean water put in place within the villages.

Evidently, from the researcher field observation, there are 3 water pumps put in place in Chebokir villages and 4 water pumps in Opagna villages with full functionality , and the writer of this study came to a conclusion without hesitation that the villagers right to clean and safe drinking water is realized (see fig.4).



Figure 4: A child fetching water at the hand pump (left) in Chebokir village and a child washing at the hand pump (right) in Opagna village.

3.8 Implications for the Right to Development of villagers

“The right to development is an unalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”¹³⁸ At the same time, in its General recommendation XXIII, the committee on CERD calls up on member states to “provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics”. It is true; the right to development of nations, nationalities and peoples’ has constitutional recognition under FDRE constitution (Article 43).

And, the constitution in its provision explicitly spells out the reflections of the realization of the right to development of nations, nationalities and people’s as; “right to improved living standards and to sustainable development, the right to participate in national development and to be consulted with respect to policies and projects affecting their community as well as enhancement of the capacity of citizens for development and fulfilling their basic needs”.¹³⁹

Taking the above legal background of the right to development at international and domestic level (Article 43) in to consideration, as already mentioned in the section (see section 3.4) dealing with procedural issues, despite the consultation process approach was convincing and dominated by local elders, officials and elites, at least discussion with communities about the program were conducted, and also villagers access to basic social services (see section 3.7) although there are still deficiencies related to health services and education are considered as some instances.

Moreover, the FDRE constitution under article 43(4) the right to development is understood as “.....enhancement of the capacity of citizens for development and fulfilling their basic needs”. Accordingly, here after as aspect of sustainable development and ensuring food security at the household level in the new villagization sites, ‘agricultural productivity’ is considered to gauge the villagization program implication for the right to development of villagers.

¹³⁸ UN General Assembly (1986): Declaration on The Right To Development. GA Res. 41/28. Article 1(1)

¹³⁹ Based on FDRE constitution, article 43(1,2 and 4)

Regarding the success of the agricultural extension program in the study villages, interview with Ato Getachew Wolde, Process Owner of Agricultural Extension expressed to the researcher, the villagers when they were in their previous settlement areas, given poor agricultural techniques (through traditional tool for cultivation i.e. ‘*Caala*’, in Anywaa language), lack of access to agricultural extension services as well as lack of crop production inputs like improved seeds, pesticides, herbicides and insecticides, productivity of crops was at low performance. He further explained that, but at present given there is technology transfer to the local communities, existence of Farmers Training Centers (FTCs), access to crop seeds and water pump generators contributed to improvement in crop productivity.¹⁴⁰

Furthermore, Ato Alemayehu Negash, Chebokir *Kebele*, Agricultural Expert, indicated that due to improvement in agricultural inputs and introduction of modern farming techniques (use of ox for ploughing, see fig.6), access to quality crop seeds, and access to agricultural extension services contributed a lot for high rate of crop farming. And, he further told the researcher the villagers (particularly in Chebokir Kebele) are at present producing more than consumption, and even they are in a condition to supply for market.¹⁴¹ This also confirmed by the FGD participants from Chebokir *Kebele*, indicates that the agriculture extension workers has done a lot to improve crop productivity. Interview with one villager expressed that, to quote his saying:

“Concerning the support of agriculture extension workers they are providing us with all necessary services based on their capacities. Even once they gave ox to us but unfortunately all of them died”¹⁴²

Furthermore, FGD participants from Chebokir village told the researcher, currently they are no longer looking for food aid rather they are able to feed their families given that they are farming different crops¹⁴³ twice in a year supported by irrigation system and the agricultural extension services provided by experts through the FTC put in place (see figure 5 below).

¹⁴⁰ Interview with Ato Getachew Wolde, Process Owner of Agricultural Extension, February 26, 2014

¹⁴¹ Interview with Ato Alemayehu Negash, Agriculture Expert, Chebokir Kebele, February 24, 2014

¹⁴² Interview with Chebokir Kebele villager, February 25, 2014

¹⁴³ Cabbage, *Adengore*, *Amula*, *Duba*, *kariya*, *Timatim*....



Figure 5: Farmers Training Center (FTC) at Chebokir village.
Field Photo taken, February, 2014



Figure 6: An Anywaa farmer while ploughing.
Field Photo taken, February, 2014



Figure 7: An old woman flaking maize (in Opagna village),
Field Photo taken, February, 2014



Figure 8: A woman collecting Cabbage (in Chebokir village),
Field Photo taken, February, 2014

However, the success of agricultural extension program at Opagna Kebele is not satisfactory, and as it was reported by the FGD participants, this is due to using traditional agricultural technique, failure to establish FTC, in turn lack of support from the assigned agricultural extension workers, and lack of water pump generator.

In a nutshell, the result of this study reveals that, despite the fact that the success of agricultural extension program has been immature at Opagna *Kebele*, the villagization program implications has laid some hope for the future development of the villagers. In this regard development indicators such as ; access to basic social services (schools, health posts, FTC, water points, and flour mill), modern irrigation scheme, permanent settlement, technology transfer, access to agricultural extension services and increasing in crop productivity (particularly in Chebokir village) can be cited. This implies that the voluntary villagization program, if planned with adequate inputs and executed with proper care and support for the villagers, will have a positive contribution to further developments of villagers in a sustainable manner.

CHAPTER FOUR

CONCLUSION

The purpose of this study was to examine the trade-offs between socio-economic rights, and consultation and cultural rights of villagers in the implementation of the villagization program. To this end, the study raised five questions. These are villagers' level of consultation to the scheme, the consideration of compensation in the implementation of the villagization program, the fulfillment of basic socio-economic institutions in the study villages, sustainability of the villagers' cultural practices in the new settlement areas, and the villagization program implication for the right to development of the villagers.

Based on the findings of the study, the following conclusions can be drawn:

The study revealed that likewise as reported by the HRW, the implementation of the villagization program in the study villages was undertaken through without having meaningful consultation with the target communities. Evidently, the approach chosen by the regional government to consult the target communities about the program was dominated by local influential elders, officials and elites at the expense of providing greater voices for the affected communities. Thus, the research concludes that, the procedural issue of consultation about the villagization program has been done not along the lines of the required procedures of consultation rather through convincing the target communities in a way that the government desires. Therefore, the regional government neither obtained prior and informed consent of the target communities nor considered the requisite procedures of appropriate consultation.

With regard to the redistributive issue of compensation in the implementation of the villagization program, the study showed that there was no compensation made to the target communities of the study villages. And, it is justified on the ground, the fact that the villagization program has been undertaken for the benefit of the communities, the original settlement area of target communities has not been claimed by the government, and the legal framework obliges the government to provide compensation merely when landholdings expropriated for public purpose. Thus, the study has come to the conclusion; payment of compensation is not justifiable as well as has no legal status.

Despite the HRW organization contention that the target communities livelihoods have been decimated and the preservation of their cultural identity has been at stake due to the villagization program, conversely the study found that because of the villagization program the villagers in the study villages has not been hinder to sustain their cultural practices in the new settlement areas and the livelihood system of the villagers, mostly relying on fishing, hunting, gathering, and mixed farming, has not been disrupted. Therefore, given that with regard to the exercise of cultural rights, as the Human Rights Committee noted culture manifests itself in many forms including traditional activities as fishing or hunting, and it is evidently considered to the villagers, and they are sustaining their cultural practices in a way that it was before the villagization program. Hence, the study concludes that, the villagization program has not disregard the cultural rights of the target communities, and being dweller to the new settlement areas did not hamper to sustain ritual cultural practices.

While assessing the basic social services in the study villages, the study revealed that, prior to the villagization program the target communities were deprived of access to basic socio-economic services. Nonetheless, after the villagization program given the villagers pattern of settlement helped them to access basic social services that they have never before accessed. In this regard the villagers have a better access to clean and safe drinking water. However, the required facilities to the school, and drugs, medical equipments and instruments to the health post are poorly provided.

The general conclusion of this study, is that, the villagization program declared purposes associated to socio-economic changes to the target communities are partially fulfilled given still there are deficiencies related to health services and schooling. In such cases i.e. in the progressive realization of the socio-economic services, the study further concludes that despite the implementation of the program undertaken without proper consultation, the villager's ways of life, cultural rights as well as ancestral land and natural resources has not been sacrificed at the table of modernization or development discourse.

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Annex- Data Collection Tools

I. Semi-Structured Interview Guideline

Regional Level:

1. Gambella Peoples' National Regional State Bureau of Agriculture and Rural development:

1. General objectives of the villagization program in the region.
2. Contribution of your institution in the villagization program.
3. Study period of the villagization program.
4. Assessments conducted to ensure that
 - The village sites are suitable for living.
 - Given farming areas are suitable for agriculture.
5. Measures taken to raise awareness on the program to the target groups
 - When was the villagization decided to take place?
 - When was the community informed?
 - What communication methods were chosen?
 - What section of the community was targeted?
6. Practicality of villagization program implementation manual guidelines and principles.
7. How was the discussion about the program with the target communities?
8. Are there communities or individuals who refused the program? If “Yes”, what was the government response to them and where currently they are living?
9. Villagization program relation with commercial agriculture.
10. Success of the villagization program:
 - Infrastructure development.
 - The success of the agricultural extension program of the region.
11. Challenge you faced in the implementation of the villagization program.

2. Gambella Peoples' National Regional State Culture and Tourism Bureau:

1. General objectives of the villagization program in the region.
2. Role of your institution in the villagization program.
3. Involvement as member of the steering committee for the villagization program.
4. What the villagization program aim of “cultural transformation” signifies?
5. Measure taken so far for the continuity of the villager’s to promote, develop and preserve their cultural practices in the new villages.
6. Do you think the villager’s way of life in the new villages helps them to realize their cultural rights? If “Yes”, how? If “No”, why?

3. Regional Federal Assistance Board Coordinating Office

1. General objectives of the villagization program in the region?
2. Role of your office in the villagization program?
3. What the villagization program aim of “cultural transformation” signifies?
4. Procedure of consultation to the target communities.
5. Any compensation made to the villagers?
6. Is there any relationship between the villagization program and large-scale commercial farming in the region?
7. How was the general participation of the target groups?
8. Is the program successful in attaining its proposed objective? If “Yes”, how? /indicators?
9. Responsible bodies to cover the cost for house construction and socio-economic services.
10. How do you describe the success of the villagization program?
11. Challenge you faced in the implementation of the villagization program?

4. Zonal and Woreda/Kebele Administration:

1. General objectives of the villagization program in the region.
2. Measures taken to raise awareness on the targeted communities about the villagization program.
3. Responsible bodies in identification of sites for settlement and target groups for the villagization program.
4. Assessments conducted to ensure that the village sites are suitable for living.
5. Studies conducted to ensure that the given farming areas are suitable for agriculture.
6. Consultation with the affected communities.
7. Participation of the affected communities.
8. Socio-economic services established to the villagers.
9. Number of households joined the villages to date.
10. Responsible bodies to cover the cost for house construction and socio-economic services.
11. Success of the villagization program.
12. Challenge faced in the implementation of the program.

Federal level:

1. Ministry of Federal Affairs Equitable Development Directorate General:

1. Rational behind the villagization program in the country.
2. Is there any linkage to the commercial agriculture investment?
3. Measures taken to raise the awareness and ensure the participation of the affected communities about the objectives of the villagization programs.
4. What was the communication method choose to consult the target communities?
5. Are there communities/individuals who refused? If “Yes”, what was the government response to them and where currently they are living?
6. The efforts taken to ensure that the new villages have the required infrastructures before resettling the communities.
7. How do you describe the success of the villagization program?
8. Challenge you faced in the implementation of the villagization program?

II. Focus Group Discussion Questions:

1. What do you think the reasons for the villagization program?
2. How do you describe the physical environment of your new settlement site as compared to your previous residence?
3. Are you allowed to go back to your previous settlements? If “Yes”, why you used to go?
4. What socio-economic services did you get here, which you didn’t in your old village?
5. What convinced you to join the villages?
6. How did the consultation take place?
 - When and by whom you were first informed about the program?
 - With whom you had consultation? Who were took part from the community side?
 - When, where and for how many times the consultation undertaken?
 - What were the points of discussion in time of consultation?
 - Did you agree? If “Yes”, how did you express your willingness?
 - How was the general participation?
 - Are there communities/individuals who refused? If “Yes”, what was the government response to them and where currently they are living?
7. Opportunities because of the program:
 - Are the new villages good for living? If “No”, why?
 - Does the villagization program improving your living standard? If “Yes”, in what way?
8. Socio-economic and cultural rights and villagization:
 - Socio-economic services provided before you relocated.
 - Socio-economic services provided after you relocated.
 - Extent of access to basic social services (health center, school, water points)
 - Do the socio-economic services provisions go along with your culture?
 - What are problems related to basic social services? If there, what do you suggest to overcome those problems?
 - How do you describe your way of life here in the new villages as compared to pre-villagization?

- Effects of the program in sustaining cultural practices:
 - How do you think living in villages will affect your culture?
 - Cultural practices better realized due to the program.
 - Cultural practices regressed due to the program.
 - Means of Livelihood before relocation.
 - Means of Livelihood after relocation? If changed, why?
9. What problems you encountered so far in the new settlement areas?

III. Observation Guideline:

1. Existence and number of social and economic infrastructures.
2. Functionality of socio-economic services.
3. Settlement of the villagers' in the new settlement areas.
4. Way of living of the villagers.
5. Closeness to school, health center, waster points, justice organs, market ...