

**Addis Ababa University
School of Graduate Studies**

**Critical Analysis of the Applicability of the Right
to Development in the Ethiopian Context**

**Prepared By: Belay Getachew
Advisor: Mellese Damtie (LL.B, B, Sc and LL.M)**

**A thesis presented to the school of Graduates studies,
Addis Ababa University, in partial fulfillment of the
requirement for the degree of master of laws in public
international law**

June 2009

**Addis Ababa University
School of Graduate Studies**

**Critical Analysis of the Applicability of the Right
to Development in the Ethiopian Context**

By: Belay Getachew

Approved by Board of Examiners

Advisor _____

Signature

Examiners

1 _____

Signature

2 _____

Signature

Declaration

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

Declared by:

Belay Getachew

Signature

Date

Declaration of this thesis has been confirmed by the approval of the advisor:

Mellese Damtie

Signature

Date

Table of content

Acknowledgment-----	i
Abbreviations and Acronyms-----	ii
Abstract-----	iii

CHAPTER ONE

1. Introduction -----	1
1.1 Background of the Study-----	1
1.2 Statement of the Problem-----	4
1.3 Objectives of the Study -----	5
1.3.1 General Objectives-----	5
1.3.2 Specific Objectives-----	6
1.4 Significance of the Study-----	7
1.5. Scope of the Study-----	7
1.6. Methodology of the Research -----	9
1.6.1 The Research Design-----	9
1. 6.2 Data Sources-----	10
1.7. Limitations of the Study-----	10
1.8. Organization of the Thesis-----	10

CHAPTER TWO

2. Evolution of the Right to Development -----	12
2.1 What are the “Right to Development” and the concept of “Development” in General? -----	12
2.2 A Brief Historical Background of the Right to Development. -----	16
2.3 Legal Status of the Right to Development -----	19
2.3.1. The FDRE Constitution---	20
2.3.2 Is the Right to Development Justiciable-----	21
2.3.3 What would a full Realization of the Right to Development Entails? -----	23
2.3.4. <i>Critiques and Country Positions on the Right to Development</i> -----	23

2.4. Elements of the Right to Development-----	28
2.4.1. From the Declaration of the RTD Point of View -----	28
2.4.2. As stated under the Vienna Declaration and Program of Action (VDPA)-----	32
2.4.3. As Excerpted from others Sources-----	33
2.4.4. Under the FDRE Constitution -----	35
2.5 Overviews of the Right to Development in the Internationals Perspectives -----	42
2.5.1 Charter of the United Nations and other Sources-----	42
2.5.2. MDGs and Targets-----	43
2.6. Obstacles to the Right to Development in General -----	47

CHAPTER THREE

3. Implementation of the Right to Development in Light of Socio -Economic Development in Ethiopia-----	51
3.1 The Socio Economic Perspectives-----	-51
3.1.1. Policies, Strategies and Programs of PASDEP -----	51
3.1.2. Participator Approaches in General -----	55
3.2. Performance of Selected Economic and Social Sectors -----	59
3.1.1 Agriculture and Development-----	59
3.1.2 Water Resource Development -----	64
3.1.3 Capacity Building and Good Governance -----	68
3.1.3 Population and Development-----	72
3.3 National Development Policy Framework and MDGs-----	74
3.3.1 Harmonization of MDGs with the Nationals Development Policy Framework. -----	76
3.3.2 Achieving the MDGs in Ethiopia and the Way Forward-----	78
3.3.2 Achieving the MDGs in Ethiopia and the Way Forward-----	78

CHAPTER FOUR

4. Implementation Status of the Right to Development from Environmental Perspectives in Ethiopia-----	83
4.1. Environmental Policies and Strategies-----	85
4.2. The Conservation Strategy of Ethiopia and Policy implementation-----	90
4.2.1 Environmental Laws, Guidelines and Standards in Ethiopia-----	93
4.2.1.1 Environmental Laws-----	93

4.2.1.2 Environmental Guidelines-----	98
4.2.1.3 Environmental Standards:-----	99
4.2.3 Environment Institutional Framework-----	103
4.3 Environment and Sustainable Development-----	104
4.4 Environment and its Link with Poverty-----	108
4.5 Integrating Environment with Development. -----	110
Conclusion and Recommendations-----	111
Reference	

Acknowledgment

I would like to thank my advisor Ato Mellese Damtie for his welcoming approach and brotherly advice. I also appreciate his valuable suggestions and encouragement from the beginning of this paper.

Indeed, I am indebted to many people than I can mention here, but my special gratitude goes to Dr. Tewolde Berhan Gebre Egziabher.

Thank you all!

Abbreviations and Acronyms

ADLI	Agricultural Development Led Industrialization
APR	Annual Progress Reports
CCPR	Covenant on Civil and Political Rights
CESCR	Covenant on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CSA	Central Statistical Authority/ Agency
CSE	Conservation Strategy of Ethiopia
DRTD	Declaration of the Right to Development
EIA	Environmental Impact Assessment
EMS	Environmental Management System
EPA	Environmental Protection Authority
EPC	Environmental Pollution Control
EPE	Environmental Policy of Ethiopia
EPO	Environmental Protection Organs
FDRE	Federal Democratic Republic of Ethiopia
GA	General Assembly
GDP	Gross Domestic Product
GNP	Gross National Product
HICES	Household Income Consumption Expenditure Survey
HIPC	Highly Indebted Poor Countries
HLTF	High Level Task Force
HOF	House of Federation
HOPR	House of Peoples' Representative
ILA	International Law Association
IMF	International Monetary Fund
IUCN	International Union for the Conservation of Nature
MDGs	Millennium Development Goals

MoARD	Ministry of Agriculture and Rural Development
MoFED	Ministry of Finance and Economic Development
MoWR	Ministry of Water Resources
NCBP	National Capacity Building Program
NGOs	Non-Governmental Organizations
NIEO	New International Economic Order
ODA	Official Development Assistance
PASDEP	Plan for Accelerated and Sustainable Development to End Poverty
PRGF	Poverty Reduction and Growth Facility
PRS	Poverty Reduction Strategy
PRSP	Poverty Reduction Strategy Paper/Program
RTD	Right to Development
SAP	Structural Adjustment Program
SDPRP	Sustainable Development and Poverty Reduction Program
SNNPR	Southern Nations Nationalities and People's Region
SSA	Sub-Saharan Africa
SWM	Solid Waste Management
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNCT	United Nations Country Team
UNDP	United Nations Development Program
UNEP	United Nations Environment Program
UNESCO	United Nations Education and Scientific Organization
US	United States
VDPA	Vienna Declaration and Program of Action
WB	World Bank
WCED	World Conference on Environment and Development
WCHR	World Conference on Human Rights
WRMP	Ethiopia Water Resources Management Policy
WSDP	Water Sector Development Program

Abstract

The Right to Development, after a long time discourse is internationally recognized as a universal and inalienable right and integral part of fundamental human rights. It is also further elaborated in the context of all human rights both individual and collective providing priority to fight against absolute poverty integrating environment in a framework of sustainable development. Ethiopia has also guaranteed the principle of the RTD in the FDRE Constitution.

States have the duty to formulate development policies for the realization of the RTD. In this respect, the FDRE Constitution incorporated economic, social and environmental objectives whereby laws and policies guided and implemented thereof. The Government consecutively, formulated national development policies in light of addressing sustainable development from the social, economic and environmental perspectives.

Thus, in this research, it has been tried to examine the applicability of the RTD in the Ethiopian context. In order to critically analyze the implementation of the RTD and its constitutive rights such as the right to improved living standards and the right to sustainable development, different methods based on primary and secondary sources have been applied. To this end, the essence, legal status and major implementation constraints have been critically assessed. For this purpose, the constitutionally recognized right of public participation is thoroughly discussed in line with development processes.

For the implementation of the RTD and its constitutive rights in Ethiopia, policy issues are outlined but the challenge is lack of specific directives or instruments and absence of effective evaluation and monitoring programs. All these problems are reflected in various sectors. More importantly, absence of effective public participation in different development activities is also identified. Therefore, if the government puts the social, economic and environmental development programs in integrated manner into practice, sustainable development can be ensured which, in turn, the principle of the RTD in Ethiopia will be progressively realized.

CHAPTER ONE

2. Introduction

1.1 Background of the Study

Since the time of the 1972 Stockholm Conference on the Human Environment, many environmentalists have accepted the argument that poverty is the greatest pollution and that amelioration of environmental damage can only be achieved together with development¹ which encompasses social and economic issues as well.

The Rio Declaration on Environment and Development clearly stipulates that the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.²

Though the Right to Development has encountered great interest in the human right community, development goals are becoming a top priority on the international agenda. At this juncture, the Right to Development seems to be an unfurnished idea of a right which no one can define in terms of its concrete implication.³

With regard to the essence of the right to development, it was introduced into the international debate in the 1950s and the 1960s by the developing countries in the UN due to the process of decolonization. Declaration on the Right to Development was adopted in 1986 by defining the right to development implicitly.⁴

However, the definition was not concise and had led to different points to the extent that it could be seen as a right to everything. So, this situation practically led to a debate

¹ Brookfield, Harold, *Sustainable Development and the Environment: The Journal of Development Studies*. Vol. 25 No.1 (1988)

² The Rio Declaration on Environment and Development, principle 3, (1992)

³ Kirchmeier, Felix, *The Right to Development – Where do we stand?* Fredric Ebert Stiftung. (2000) at page 3

⁴ Declaration on the Right to Development Adopted by General Assembly Resolution 41/128 (1986), Article 1(1). <http://www.unhchr.ch/html>. (accessed on 4/11/2008)

reaching a narrower and more exact definition. The definition part shall separately be discussed in the next chapter.

In the same declaration, it is pointed out that the human person is the central subject of development and should be the active participant and beneficiary of the right to development.⁵

From this stand point, one can inquire that is the right to development a legally binding instrument? From where does it draw its legal foundation?

In 1987, the UN Secretary-General organized a global consultation on the fundamental problems posed by the implementation of the Declaration and the criteria which might be used to identify progress in the realization of the right to development.⁶ Subsequently, after the end of the cold war, the Right to Development provides a new possibility to tie development strategies back to human rights based approach to development.⁷ Hence, a new turn has been brought to the debate by various development goals and strategies focusing on the practical application of the right to development from socio-economic perspectives.⁸

The current debate at the UN is proposed by the Working – Group that the intention is to make the right to development a reality for everyone.⁹ Of course, there are different obstacles to the realization of the right to development since the time the right to development was publicly proposed as a fundamental human right. Furthermore, the economic, social, cultural and political development of the human person as a single member of an entire people is embedded to broaden national and international context.¹⁰

⁵ *Ibid.*, Article 2 (1)

⁶ Genugten, V., Willem and Bustillo P., Camilo. (ed.) *The Poverty of Rights: Human Rights and the Eradication of Poverty*, Zed Books Ltd., London : (2001) Page 145

⁷ Kirchmeier, Felix, *Supra* at page 4

⁸ *Ibid.*,

⁹ *Id.*,

¹⁰ *Id.*,

As in the case of all other human rights, the implementation of the right to development requires first and foremost its translation to the domestic level.¹¹ Former UN Secretary-General Boutros Boutros-Ghali pointed out in his Agenda for Development – and the Copenhagen Declaration, adopted at the 1995 World Summit for Social Development clearly concurs with him-that “each state continues to bear primary responsibility for its own development.”¹²

When we come to the case of Ethiopia, the right to development is enshrined under the FDRE Constitution which reads as:

*The People of Ethiopian as a whole, and each Nation, Nationality and People in Ethiopia in particular have the right to improved living standards and to sustainable development.*¹³

Ethiopia as one of the poorest countries in the world, how could the realization of the Right to Development is possible thereof?

What mechanisms should be developed in order to attain the basic aim of development activities to enhance the capacity of citizens for development and to meet their basic needs?

The fact on the ground reveals that Ethiopia’s development policies and strategies are in place for implementation. The main objective of the PASDEP is concerned the nation’s overall strategy for development outlining the major programs and polices in each of the major sectors with respect to the socio economic perspective.¹⁴

¹¹Genugten, V., Willem, *Supra* at page 146

¹² *Ibid.*,

¹³ The Constitution of the Federal Democratic Republic of Ethiopia *Negarit Gazeta* 1st Year, No.1, 1995. Article 43 (1)

¹⁴ Plan for Accelerated and Sustained Development to End Poverty (PASDEP) a Strategic Framework for the five years period (2005/06 – 2009/10) at page 1

In addition to this, the concept of Environment and Development¹⁵ is one of the areas covered in the PASDEP and which sought for a research in-depth. Hence, it is very crucial to critically examine the applicability of the Right to Development in the Ethiopian context.

1.2 Statement of the Problem

The Right to Development (RTD) is one of the democratic rights enshrined in the FDRE Constitution of 1995.¹⁶ Though the concept of the RTD balancing with the principle of sustainable development has been controversial from the very beginning, currently, it is quite common to hear and read about the achievement of development in Ethiopia in different perspectives.

Generally speaking, couple of decades elapsed since the right to development was publicly proposed as a human right internationally. In this regard, the Declaration on the Right to Development can be taken as an instrument to transforming the aspiration into the reality. In the case of Ethiopia, it is nearly thirteen years since the FDRE Constitution recognized the Right to Development as a democratic right of the people of Ethiopia.¹⁷

It is indeed plausible in the first place to investigate what the essence of the Right to Development would mean? What are the serious obstacles to realize the right to development in Ethiopia? What are the implementation problems in light of social, economic, and environmental perspectives?

As per the FDRE Constitution, it is highlighted all international agreements and relations concluded shall protect and ensure Ethiopia's right to sustainable development.¹⁸ But, what do we mean by the essence of 'sustainable development' in the Ethiopian context? How does sustainability relate to environmental, societal and economic concerns in the Ethiopian context?

¹⁵ *Ibid.*, at page187

¹⁶ *Supra* note 13,

¹⁷ *Ibid.*,

¹⁸ *Ibid.*,Art.43 (3)

On top of this, the participation and consultation in national development policies and projects affecting them respectively is stipulated under the Constitution.¹⁹ However, what are the problems to implement the right to development in this respect?

The issues of social, economic, and environmental and others like peace and democracy pervade all aspects of development and has an impact on countries at all levels of development. Hence, socio-economic development and environment are not separate concepts; nor can one be successfully addressed without reference to the other.²⁰ Therefore, it has paramount importance to examine these links between the right to development and its applicability in the Ethiopian context.

1.3 Objectives of the Study

The research will attempt to investigate the essence of the right to development, its legal status and the link with social, economic and environment. It also explores the current debates on the right to development in general and problems of realization of the right to development in the Ethiopian context in particular.

In addition to this, the study tries to critically analyze the problems of the right to development in Ethiopia. The researcher will also attempt to examine the implication of the current debate on the right to development in the Ethiopian context.

The link between social, economic, and environmental issues will also be addressed in line with the applicability of the right to development as enshrined in the FDRE Constitution.

The research at its outcome will try to indicate some recommendations which could help the policy and strategic plans of the country for its proper and prompt enforcement to attain an accelerated, equitable, economic, and sustainable development in Ethiopia.

¹⁹ *Ibid.*, Art.43 (2)

²⁰ An Agenda for Development Report of the Secretary-General A/48/935, 6 May 1994, at par.(68)

1.3.1 General Objectives

The general objectives of the study are therefore to:

1. Investigate the essence of the right to development,
2. Examine the legal status of the right to development in Ethiopia,
3. Explore and envisage the link between the right to development and social, economic, and environmental perspectives in the Ethiopian context,
4. Address the interrelationship between the right to development and sustainable development.

1.3.2 Specific Objectives

Particularly, the study tries to:

1. Analyze the concept of the right to development in the Ethiopian context,
2. Critically analyze the implementation of the right to development in Ethiopia,
3. Evaluate the role of the laws and institutions or sectors to realize the right to development in Ethiopia,
4. Evaluate the policies and strategic plans and their respective roles in realizing the right to development,
5. Show the socio-economic and environmental integration with development process in Ethiopia,
6. Evaluate some international agreements and relations inline with ensuring sustainable development, in Ethiopia.
7. Examine the problems and obstacles of realizing the right to development in Ethiopia,
8. Provide for suggestions that may contribute to enabling applicability of the right to development in Ethiopia.

1.4 Significance of the Study

As has been stated, the study primarily investigates the essence of the right to development and its implementation in Ethiopia relating with economic social and environmental perspectives. It also further addresses the concept of sustainable development in the Ethiopian context. In line with this, the study has the following specific significance:

- It may provide concerned government officials and decision makers relevant and research based information regarding the concept of the right to development and its implementation in Ethiopia,
- It may hopefully contribute to the understanding of policy makers as to how the right to development relates with the concept of sustainable development in line with the FDRE Constitution,

1.5. Scope of the Study

The right to development as a principle of public international law implies the co-operation of States for the elaboration of civil, cultural, economic, political and social standards, embodied in the Charter of the UN,²¹ the International Bill of Human Rights²², and African Charter on Peoples' Rights based upon a common understanding of the generally recognized human rights and of the principles of public international law concerning friendly relations and co-operation among States.²³

These standards should be taken into account by States in the formulation, adoption and implementation of administrative, legislative, policy and other measures for the realization of the right to development at both national and international levels.²⁴

²¹ Bulajic, Milan. *Principles of International Development Law* 2nd (ed.) Martinus Nijhoff Publishers: London (1993) at page 457-458

²² This comprises the UDHR (adopted in 1948), ICCPR (acceded in 1993) and ICESCR (acceded in 1993)

²³ Bulajic, Milan, *Supra* at page 459

²⁴ *Ibid.*,

The Right to Development has also been part of the international debate on human rights for many years, since the adoption of the Declaration on the Right to Development in General Assembly -Resolution 41/128 1986 the progress on its implementation had been very slow.²⁵ This is probably due to the arguable nature of the issue. However, in recent years the development issue has gained a certain momentum.²⁶

The Right to Development, as stated in the Declaration contains three major elements which can be described as:

- a) an inalienable human right that is called the right to development,
- b) a particular process of economic social cultural and political development in which all human rights and fundamental freedoms can be fully realized and
- c) human rights by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy particular process of development.

The United Nations Millennium Declaration [a resolution adopted by the General Assembly] forwarded its commitment to making the right to development a reality for every one and to freeing the future human race from want. In protecting our common environment the declaration reaffirmed to support for the principles of sustainable development including those set out in Agenda 21, agreed upon at global level.

The African Charter on Human and Peoples' Rights to which Ethiopia is also a party clearly stipulates "enjoyment of rights and freedom also implies the preference of duties on the part of everyone and concluded to pay a particular attention to the right to development."²⁷

The FDRE Constitution also clearly recognizes the fundamental rights to the peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular to live in a clean and healthy environment, the right to livelihood, the right to improved

²⁵ Kirchmeier, Felix, *Supra* at page 8

²⁶ *Ibid.*, at page 9

²⁷ Article 22(2) of the African Charter on Human and Peoples' Rights (Ethiopia ratified on 15 June 1981 and see also the accession Proclamation No.114/1998, Federal Negarit Gazeta, 14th year, No.1)

living standards and, the right to sustainable development.²⁸ With respect, to ensuring sustainable development from internationally accepted standards point of view all international agreements and relations concluded, established or conducted by the State shall protect and ensure Ethiopia's right to sustainable development.²⁹

Currently, PASDEP is Ethiopia's guiding strategic framework adopted as a legal document defining the national development plan for the five year period 2005/06 – 2009/10. The PASDEP represents the second phase of the Poverty Reduction Strategy Program (PRSP) Process, which has begun under the Sustainable Development and Poverty Reduction Program (SDPRP). In this regard, the development issue in its context is very wide and related with various disciplines so that it cannot be fully addressed in this research. Hence, the researcher has confined himself to the social, economic, and environmental point of views in the Ethiopian context.

Accordingly, the study is limited to critically analyze the applicability of the Right to Development in Ethiopia focusing on the Federal Government level.

1.6. Methodology of the Research

1.6.1 The Research Design

In order to attain the objectives of the study, constitutional provisions, other relevant legal provisions and development policies and strategies were analyzed. Cases and practical problems with respect to the implementation of the right development in Ethiopia had been tried to be discussed in-depth. However, no court case could be available either pending or decided to the issue held in point. In this regard, the researcher exerted all the maximum effort to fill the gaps by way of interviews with appropriate persons such as judges, lawyers, and instructors, legal advisors, development policy makers, civil societies, etc.

²⁸*Supra* note 13

²⁹*Ibid.*,

1. 6.2 Data Sources

With regard to data sources, both primary and secondary sources were considered. Accordingly, primary information from concerned government officials, legal advisors, and other experts in the field were gathered as found relevant. Particularly, information from the Ministry of Agriculture and Rural Development, Ministry of Trade and Industry, Ministry of Finance and Economic Development, Environmental Protection Authority, etc., had been considered.

As far as secondary source is concerned data from various kinds of published and unpublished materials on the topic had been considered. Thus, to the maximum effort relevant books, journals, laws, International Declaration and Conventions, UN reports, Working Group documents, polices strategic plans, magazines, bulletins and other relevant materials from libraries and from internet were considered.

1.7. Limitations of the Study

As has been stated during the proposal of this research, the writer desired to critically analyze on the applicability of the Right to Development in the Ethiopian context addressing the concepts of sustainable development in light of social, economic, and environmental perspectives. Nevertheless, the researcher had encountered chronic problem to the access of significant primary data including interviewing high government officials thereof.

1. 8. Organization of the Thesis

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

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

Chapter two focuses on the evolution and legal status of the Right to Development and the writer also discusses the historical background and elements of the right to development in brief. General overview of the right to development in the international prospect has also been discussed focusing on United Nations and related action, MDGs and targets and the possible obstacles to the realization of the Right to Development.

Chapter three devotes to examine implementation of the Right to Development in light of socio-economic development in Ethiopia discussing policies, strategies and programs including PASDEP. The performance of selected economic and social sectors such as agriculture and development, water resource development, capacity building and good governance, population and development has been discussed. In addition to this, the National development policy framework and MDGs have been covered under this chapter.

Chapter four deals with the implementation status of the RTD from environmental point of view focusing on the existing environmental policies, goals and strategies in line with this the conservation strategy of Ethiopia has also been in focus. In addition to this, the compatibility issues of environment and sustainable development and the integration of environment with development have been discussed.

Finally, the paper shall end with conclusion and recommendations.

CHAPTER TWO

2. Evolution of the Right to Development

2.1 What are the “Right to Development” and the concept of “Development” in General?

The first attempt was made to define the Right to Development in 1972 in an address given to the International Institute of Human Rights in Strasburg by the President of the Senegal Supreme Court, Keba M’Baye, in which he came to the conclusion that “the right to development is a human right, because man cannot exist without development.”

Declaration on the Right to Development (DRTD) adopted by General Assembly resolution 41/128 of 4 December 1986 proclaims:

*The right to development is an inalienable human right by virtue of which every human person and all people are entitled to participate in and contribute to and enjoy economic and political development in which all human rights and fundamental freedoms can be fully materialized.*³⁰

In adopting this Declaration the General Assembly recognized that development is a comprehensive economic, social and political process which aims at the constant improvement of the well-being of the entire population and of all individuals on all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from.³¹

An outspoken definition of the right to development was provided by former secretary General Kofi Annan in his statement to the 53rd session of the commission on Human Rights on 9 April 1997 reads as:

³⁰ *Supra* note 4

³¹ *Ibid.*, second paragraph of the preamble

Truly sustainable development is possible only when the political, economic and social rights of all people are fully respected. They help to create the social equilibrium which is vital if a society is to evolve in peace. The right to development is the measure of the respect of all other human rights. That should be our aim a situation in which all individuals are enabled to maximize their potential of society as a whole.

Combining the statements stated under the preamble and article1 of the DRTD

*Arjun Sengupta defines the right to development as:

The right to a particular process of development in which “all human rights and fundamental freedoms can be fully realized”, which is recognized as a human rights and which is consistent with the basic approach of the realization of all the rights and freedoms recognized as human rights - civil and political rights and economic and social and cultural rights - in their totality as an integrated whole, as all these rights are interrelated and interdependent.³²

He also pointed out that the right to development is:

... [a] process in time not a finite event and the elements that constitute development are interdependent, both at a point in time and over a period of time.³³

Although there is no a clear cut definition as to the term ‘development’ in terms of distinct field of study, it is plausible to examine the definition of development in social, economic and environmental dimensions. Hence, development is commonly viewed by

* Arjun Sengupta is one of the most senior scholars in the area of the RTD. One can find lots of materials by him on the internet. <http://www.muse.jhu.edu/login>

³² Sengupta, Arjun, *Implementing the Right to Development*, at page 3. Available at <http://www.inwent.org/ef-texte/human-rights/senguta.htm>. (Accessed on 05/10/2008)

³³ *Ibid.*,

social scientists as process of historical change towards certain social goals and development is also a fundamental human right and the most secure basis for peace.³⁴

“Social development theory” suggests that development changes in social relations. Some social scientists see this as a progression from earlier social organizations such as tribalism and feudalism to more “advanced’ ones such as” post industrial capitalism” or some form of “socialism”. For most, it implies that the composition and distribution of goods and services produced should be directed towards meeting the basic needs and legitimate aspirations of diverse social group. Thus, everyone should enjoy equal rights and access to opportunities, as all human beings are assumed to be of equal inherent worth.³⁵

For many, “economic development’ implies an increasing technological and organizational capacity to produce goods and services in terms of per capita GNP as conventionally measured. Others insist on the need also to consider issues of distribution and depletion of natural resources in measuring economic growth. In either case economic development is viewed as an improvement of production capacities and a growth of “useful” output.³⁶

Environmental development is very complex term to precisely provide a definition for it because environment and development as a separate term could be examined from different perspectives. Hence, one can refer their link as stated in the World Commission on environment and development as:

There has been growing realization in national governments and multilateral institutions that it is impossible to separate economic development issues from environmental issues many forms of development erode the environmental resources upon which they must be based and environmental degradation can undermine economic development.

³⁴ *Supra* note 20

³⁵ Barrowclough, Solon *et al* Rural Development and the Environment: Towards Biologically and Socially Sustainable Development Switzerland (1997) at page 3

³⁶ *Ibid.*,

As to the definition of development, the concept is normative and greatly complicated by the fact that different social actors have many conflicting objectives. In any case, “development” has to take place within the constraints imposed by the global ecosystem that constitutes the natural environment for human activities.

Generally speaking of development, the RTD is an independent human right and a prerequisite for the enjoyment of other human rights. It could be seen both for individuals and for states as a right of access to the means necessary for the realization of human rights defined in international instruments or Bill of Human Rights³⁷ and as a corollary to the right to self-determination.

Development in the view of the some writers should include the promotion and protection of human rights, civil and political, as well as economic, social and cultural rights. Hence, it is also important to mention the view of Karel Vasak. In this regard, who classified the right to development in a category of human rights known as the “third generation” of human rights.³⁸ In his theory of the first generation of human rights it consists broadly of those political and civil rights on the basis of which the state should refrain from interfering with certain individual freedoms. The second generation consists of those social, economic and cultural rights whose implementation requires active involvement by the state.

According to Vasak’s theory the third generation of human rights encompasses solidarity rights, among which he includes not only the right to development but also the right to a healthy environment and the right to own the common heritage of man kind.³⁹

In the 1993 Vienna Declaration and Program of Action (VDPA), the world conference on Human Rights (WCHR) found clear guidance and reaffirmed the RTD as established in

³⁷ *The term Bill of Human Rights does not refer to one single document but denotes the sum of the three most important international documents on human rights: the Universal Declaration of Human Rights, The International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights. (ICESCR)*

³⁸ Bulajic, *Supra* at page 361

³⁹ *Ibid.*, at page 362

the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.

Since the adoption of the 1993 VDP, the references to what the RTD are found in major UN documents including the Millennium Declaration, which states: “We are committed to make, the right to development a reality for everyone and to freeing the human race from want”.⁴⁰

2.2 A Brief Historical Background of the Right to Development.

As regards continues debate initiated in UNESCO, the question of the right to development was formally raised in 1977 in the United Nations Human Rights Commission. The Commission requested the UN Secretary General to undertake a study on the international dimensions of the right to development as a human right.⁴¹ The request was based on the idea that a relationship exists between human rights and economic and social development.⁴²

Bulajic and some authors of principles of international development also agreed that this resolution of the commission was in fact the first recognition of the RTD in its historical development to be considered as a human right and the very starting signal for a series of UN activities. Accordingly, in 1979, the UN Human Rights Commission adopted a resolution stating that *the right to development was a human right, adding that “equality of opportunity for development is as much a prerogative of nations and of individuals within nations”*. In this regard, may be because of the then political polarization the United States, Voted against and Belgium, France, Israel, the UK, Luxemburg and Malazui abstained.⁴³

⁴⁰ General Assembly Resolution 55/2 United Nations Millennium Declaration, (2000) Paragraph 11. Available at <http://www.un.org/millennium/declaration/are552e.htm>

⁴¹ Weerelt V. Patrick, *The Right to Development as a Programming Tool for Development Cooperation*. In the Poverty of Rights : Human Rights and the Eradication of Poverty (ed.) Zed Books Ltd, London (2001) at page 144

⁴² *Ibid.*,

⁴³ Bulajic, Milan, *Supra* at page 362

To see the historical background of the RTD in brief, the UN General Assembly Adopted a resolution in the same year and asked the Secretary General to holding a seminar on the effect of the then unjust international economic order on the economies of developing countries and the obstacle that constitute for the implementation of human rights and fundamental freedoms and in particular for the right to enjoy an adequate standard of living as stated in article 25 of the UDHRs. Based on this profound consideration, the UN Commission on Human Rights in 1980 again recognized the need to create, at national and international levels conditions for effective enjoyment of all peoples and all individuals of the right to development.⁴⁴

Following the year, in 1981, the Commission on Human Rights decided to establish a working group of 15 government experts of which Ethiopia was one of the countries involved as an expert in the group. These government experts were mainly to submit a report with concrete proposals for the implementation of the right to development and for a draft international instrument on the right to development.

Historical documents reveal that the UN General Assembly again reaffirmed in 1982 that the right to development is an inalienable human right and that international peace and security are essential elements in achieving the full realization of the right to development, emphasizing that the UN should give attention not only to the human rights aspects of development but also the development aspects of human rights.⁴⁵ It also recognized in 1984 that all human rights and fundamental freedoms are indivisible and interdependent.⁴⁶

The road towards a consensus on the RTD was very difficult that the UN General Assembly, however; adopted the Declaration on the Right to Development in its Resolution 41/128 of 4 December 1986, by a vote of 146 in favor, one against (the US) and eight abstentions. This situation indicates that the acceptance of the concept of the right to development was at climax.

⁴⁴ *Ibid.*, at page 364

⁴⁵ *Ibid.*, p.365

⁴⁶ Weerelt, V. Patrick, *Supra* at p. 145

It was remarkable that in 1987, the UN Secretary - General organized a global consultation on the fundamental problems posed by the implementation of the Declaration and the criteria which might be used to identify progress in the realization of the right to development. Subsequently, in 1993 building on the consensus of the Vienna World Conference the RTD was reaffirmed as: “a Universal and inalienable human right and integral part of fundamental human rights”.⁴⁷

In 1996, the Commission on Human Rights decided that the implementation of the Declaration on the Right to Development requires perseverance and concrete efforts and that this dynamic process should be pursued at all appropriate levels, including through the elaboration of international and national strategies, which requires the effective contribution of states and non-governmental organizations active in the field.⁴⁸ To that end, the writer will discuss in the next chapters of the research as to how the concept of the RTD is addressed in the national development strategies of Ethiopia such as PASDEP.

The Commission on Human Rights recognized that the Declaration on the Right to Development constitutes an integral link between the UDHR and VDPA through its elaboration of holistic vision integrating economic, social and cultural rights with civil and political ones as well.⁴⁹

As indicated above the implementation of the RTD requires first and foremost its translation to domestic level. In this respect, development requires a competent government leadership, coherent national policy and strong popular commitment. It is thus in the view of the writer it is very important to underscore the implementation of the RTD in the Ethiopian context as enshrined in the FDRE Constitution.

⁴⁷ *Ibid.*,

⁴⁸ *Ibid.*,

⁴⁹ *Ibid.*, at page 146

Patrick V. Weerelt known writer on the topic of developmental aspect proposed that the right to development contains all the necessary components to guide the human rights system in the new millennium.⁵⁰ He also argued that:

*the right to development is a programmatic tool which can be used to strengthen the normative foundation for tackling fundamental issues related to poverty and other aspects of sustainable human development.*⁵¹

Arjun Sengupta, also proposed that:

*when development is seen as a human right, it obligated the authorities, both nationally and internationally, to fulfill their duties in promoting the right in a country where the adoption of appropriate policies follows from that obligation.*⁵²

According to United Nations Millennium Declaration the international community is highly committed to the realization of the RTD from the grass roots level.⁵³

As regards to the implementation of the right to development in the Ethiopian context, the guiding objectives are embodied in the FDRE Constitution as a fundamental tool for its realization and which it will be discussed in depth in the next sections.

2.3 Legal Status of the Right to Development

For Kirchmeier, the right to development is not yet a legally binding instrument, but draws its legal foundation from binding human rights covenants.⁵⁴ He also described the RTD as “soft law” which this term denotes a group of human rights that have been generally accepted by the world community and reaffirmed in declarations and

⁵⁰ *Id.*,

⁵¹ *Id.*

⁵² Sengupta, Arjun, *The Right to Development as a Human Right (2000)* at page 6.

[http://www.hsph.harvard.edu/fxbcenter/FXBC:wp7-Sengupta\(pdf\)](http://www.hsph.harvard.edu/fxbcenter/FXBC:wp7-Sengupta(pdf)) .Accessed on 5/20/2008

⁵³ *Supra* note 40

⁵⁴ Kirchmeier, Felix, *Supra* at Page 11

resolutions by the leaders of many states. However, they have not reached the status of law in those countries.

There are also other sources that figured the recognition of the RTD as a universal and inalienable right. To that end, they argued that it is integral part of fundamental human rights. Amplifying its implementation, they also underline their firm believe that the RTD is required to be translated in domestic level.

2.3.1. The FDRE Constitution

The FDRE Constitution recognized the RTD as a fundamental democratic right. Hence, article 43 of the constitution reads as:

1. *The Peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular have **the right to improved living standards and sustainable development.** [Emphasis added]*
2. *Nationals have the right to participate in national development [Emphasis added] and, in particular, to be consulted with respect to policies and projects affecting their community.*
3. *All International agreements and relations concluded, established or conducted by the State shall protect and ensure Ethiopia's right to sustainable development.*
4. *The basic aim of development activities shall be to **enhance the capacity of citizens for development and to meet their basic needs.** [Emphasis added]*

According to this constitutional provision, the concept of “the right to sustainable development”, “the right to improved living standards” and “the right to participate in national development “are guaranteed. These concepts are imperatives that the RTD in the constitution incorporated them as fundamental democratic human rights.

At this juncture, it is worth mentioning to discuss the legal status and implication of the RTD under the FDRE Constitution. Hence, one can safely enquire that “why the right to

development under the FDRE Constitution is recognized as a fundamental democratic right?” and “What does this classification imply?”

According to the FDRE Constitution, those rights referred as human rights are found under part one of chapter three from articles 14 – 28 and those rights referred as democratic rights are stated from articles 29-44. So, the RTD is explicitly recognized as one of the fundamental democratic rights which the effect of this classification entails its own purpose and not even the theme of this research. Nevertheless, the issue at this point focuses on the enquiry “is the right to development a legally enforceable right,” it will be discussed next.

2.3.2 Is the Right to Development Justiciable

With regard to the FDRE Constitution, there is no straightforwardly stated provision as to whether the right to development is justiciable or a programmatic right? Nevertheless, if one closely looks at article 13(1) of the FDRE Constitution which reads as:

All Federal and State legislative, executive and judicial organs at all levels shall have the responsibility and duty to respect and enforce the provisions of chapter three.

It seems the right in question is justiciable. However, the researcher went through the explanatory document of the draft FDRE Constitution and established that the right to development is unjusticiable which is to say that aggrieved individuals cannot take their claim against the violation of the right to courts. Apart from this, there is a response to a formatted interview developed and forwarded by the researcher. In this respect, it was confirmed that the RTD is not justiciable. The interviewee also added that: “when we talk about a right, there has to be a mechanism whereby the right can be implemented particularly when the right is in dispute. The case of the RTD cannot be implemented at the court of law.⁵⁵ So, legally speaking or in the strict sense of the law the writer also shares the same view taking the constitutional explanatory document as an authority.

⁵⁵ Interview with Ato Seid Jundi, Currently, Vice president of State Supreme Court of Oromia, 04/02/09 (LL.B and LL.M) currently working his Masters in Leadership Administration.

The explanatory document further relates article 43 along with articles 41 and 44 to the provisions under the chapter dealing with “National Policy Principles and Objectives.”⁵⁶ It states that the latter put in a reverse order that citizen right vis-à-vis State obligation and their similarity is that both are injusticiable.⁵⁷

One of the questions raised during the draft discussion of the constitution regarding the concept of the right to development and policy principles was: *What is the significance of putting such rights and duties in the constitution unless they are injusticiable?* In the same explanatory document it is also commented that “... Unless such principles are explicitly stated, government organs would not know the course they should take and the public would not have standard to evaluate its representative”.⁵⁸ When policies or strategies that do not comply with principles enshrined under the chapter ten of the constitution, the people will have the access to oppose the implementations thereof.⁵⁹

As regards the degree of the right to development under the FDRE Constitution, it is a programmatic right which means “it is a goal to be attained by the State”. However, if the government fails to implement this right by way of designing compatible policies, strategies and programs set forth under chapter ten of the constitution, loss of the votes of citizens especially during election is inevitable.

The US government consistently argued that ‘development’ is a goal; it cannot be a right. But, the writer do not agree with this line of argument because the RTD is not only a goal but a vehicle where by all human rights and fundamental freedoms can be realized in terms of economic, social, cultural and political development as implicitly incorporated in the Charter of the United Nations and other International Conventions and Declarations. Even the US eventually supported the VDPA that reaffirmed the RTD as universal and inalienable right and an integral part of fundamental human rights.

⁵⁶ FDRE Constitutional Explanatory Document 1995, HOPR- Documentation (unpublished). At page 90

⁵⁷ Abdu Mohammed, *Enforcement of the Right to Development under the FDRE Constitution*, AAU Faculty of Law 2001, at page 41. (Unpublished)

⁵⁸ *Supra* note 56; at page 91

⁵⁹ *Ibid.*,

2.3.3 What would a full Realization of the Right to Development Entails?

One of the contentious issues of the right to development is: “what if, full implementation of the right will really mean for different countries?” Based on this, there are different views reflected from various countries. Suppose, developed countries with this regard assume that it could be seen as “the right to everything and thus it allows States or individuals from any state to sue rich nations for the fulfillment of what is perceived to be necessary for the enjoyment of the right.”⁶⁰ For long time, this can be taken as the biggest fear of the developed countries. That is why may be the developed countries like US. UK. . . . stood against the very concept of the RTD.

In the contrary, developing countries claim that the international economic and political order constitutes an obstacle to the enjoyment of the right to development for their citizens.⁶¹ They, therefore see a need for action in the international dimension of full realization of the right. In their view, they are able to provide the necessary basis for the enjoyment of the RTD only if the international order becomes more conducive to the economic development of developing countries in general.

2.3.4. Critiques and Country Positions on the Right to Development

There was no ambiguity at the time of the adoption of the UDHR about political and economic rights being interrelated and interdependent components of human rights, and no disagreement that “true individual freedom cannot exist without economic security and independence.”⁶² Thus, during the drafting of the UDHR, it was first identified and advocated for the right to development. However, the spread of the cold war split the consensus over the unity of civil and political rights and economic, social and cultural rights. As a result, two separate covenants⁶³ were adopted and came into force in the late 1970s.

⁶⁰Kirchmeier, Felix, *Supra* at page12

⁶¹ *Ibid.*,

⁶² *Supra* note 32; at page 1

⁶³ *ICCPR and ICESCR*

The Declaration on the Right to Development was then the result of a long international deliberation and negotiation to get back to the original conception. However, the single dissenting vote by the US set back the implementation process of the RTD by several years.

At this juncture, it is worth mentioning to discuss about the issues raised against the foundational basis of the RTD. Accordingly, the world was divided between those who denied that economic, social and cultural rights could be regarded as human rights and those who considered that economic social and cultural rights as not fully justifiable human rights but as essential human right.⁶⁴

As noted above, apart from the political and cold war reasons different countries took their respective positions. The critiques from the western countries⁶⁵ perspective against the RTD can be summed up as in the following three points of criticism where the first criticisms is identification of human rights in terms of individual rights. In this regard, Donnelly puts it:

*in the UDHR, human rights are clearly and unambiguously conceptualized as being inherent to humans and not as the product of social cooperation' these rights are conceptualized as being universal and hold equally by all that is a natural right.*⁶⁶

Against this view Arjun Sengupta proposed that: *it is hard to regard only civil and political rights as human rights and economic and social rights as not human right. In line with this view, Philip Alston puts it categorically as: It is a matter of human decision what kind of limits are accepted as right and duty bearing units and what kinds of rights they shall have.*⁶⁷

⁶⁴ *Supra* note 52; at page 6

⁶⁵ Those countries supporting civil and political rights but opposing economic and social rights

⁶⁶ *Supra* note 52; at page 10

⁶⁷ *Supra* note 32; at page 3

To conclude with the critics, the writer believes that it is for the concerned people to decide what they would regard as human rights and which the States would have the obligation to deliver.

Keba M' Baye, president of the Senegal Supreme Court, in his first attempt to define the RTD in 1972 articulated that the right to development is a human right; he also argued *all fundamental rights and freedoms are necessarily linked to the right to existence because man cannot exist without development*.⁶⁸

Outstanding concerns about the right to development include: whether it is a collective or individual human right; whether it is exercised by states and or individuals and groups; which states or other entities are responsible for ensuring the realization of the right; whether it is a distinct human right or really a synthesis of other human rights; and even whether there exists a right to development as a legal right under international law.

In this regard, Higgins contrasted what she sees as major ambiguities in international instruments and international behavior concerning the content and implementation of the right to development with the treatment accorded by nation states and UN organs toward the right to food. She perceives the collective right to food as an existing "present right" rather than as a "long-term aspiration," a term she identifies with the right to development.⁶⁹

It can be said that country's position towards the concept of the RTD started at the verge of preparing the draft Declaration of the RTD in 1984. Hence, Yugoslavia was a country to be mentioned in formulating its own proposal of the draft declaration on the RTD. Accordingly, its draft formulation reads as:

⁶⁸ Bulajic, Milan, *Supra* note at page 36

⁶⁹ *Human Rights, Environment, and Economic Development: Existing and Emerging Standards in International Law and Global Society* Available at <http://www.muse.jhu.edu/login> and Assessed on 5/19/2008

*The right to development is inalienable human rights by virtue of which every human person and all people 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.*⁷⁰

Experts from France and the Netherlands also expressed different view in the draft declaration as:

*Development is understood as a cultural as well as civil and political process, which aims at the promotion and protection of the fulfillment of the human being and the well being of all peoples, and is based on the free, active and meaningful participation of all human beings, individuals and collectively peoples and States. The RTD as a human right has thus an individual and collective dimension.*⁷¹

The Yugoslav Draft Declaration on the RTD was sponsored by nine developing countries including Ethiopia. The Brazilian delegation also concluded that the draft accommodated the wide range of positions expressed on the subject. The Chinese delegation also stated that the RTD as inalienable human right and that declaration would be of great significance of human right. For the Soviet Union the RTD was an inalienable right of nations, and could not be viewed as an abstract individual right.⁷²

The US representative stressed that any definition of the RTD must take account of the fact that human rights were exercised by individuals and that economic rights, unlike civil and political rights, did not lend themselves to legally binding or enforceable commitments.⁷³

⁷⁰ Bulajic, Milan, *Supra* at page 363

⁷¹ *Ibid.*,

⁷² *Id.*,

⁷³ *Id.*,

Given all the different positions during the drafting of the declaration of the RTD on 4 December 1986 the UN General Assembly adopted the Declaration of the RTD as an inalienable human right by a vote 146 in favor, one against (the US) and eight abstentions. One can enquire that “Why US was against the concept of the RTD to this extent?” The fundamental difficulty for the US with the entire concept of a RTD was that economic and social rights are on the civil and political rights: the Government of US views the RTD as the right of every individual to have the opportunity to develop his or her full potential as a human being in all areas of human endeavor and considers the role of the state in this area to be that of a facilitation.⁷⁴

The US, however, has not attached similar reservations to affirmations of the right to development in the subsequent Vienna or Copenhagen Declarations. Since the drafting of the Vienna Declaration in 1993, the State Department now recognizes the existence of a right to development, but only insofar as it relates to the right of each individual to develop fully to his/her potential. It does not accept the right to development as a right of states to demand foreign assistance or to qualify protections of civil and political rights.⁷⁵

Currently, that is to say after the end of the so called Cold War different countries or groups of countries promote different views against the RTD. The position of Germany for instance supports and agrees to the concept of the RTD. However, it emphasizes the fact that the RTD does not necessarily focus on international cooperation. It also believes that the primary duty to create an enabling environment lies with the developing states themselves, Hence, Germany fully endorses the concept that the RTD means ‘growth with equity’ without acknowledging the principle as a binding right. Hence, from Germany’s point of view, the RTD or in the other way round a right based approach to development attach importance to both development outcomes and processes of development. Germany basically states that coordinating trade, development, and human rights policies could contribute to a coherent approach so as to optimize the realization of

⁷⁴*Id.*, at page 364

⁷⁵ *Supra* note 69

human rights, including the RTD.⁷⁶ Similarly, different countries submitted different positions.

Other countries and groups of experts, such as the International Law Association (ILA), in contrast, have accepted the existence of a right to development in both its group and individual dimensions.⁷⁷ In its 1994 report, the ILA sought to identify the means by which to elaborate the content of the right. Among its findings were that: 1) the right to development should be elaborated in the context of all human rights, both individual and collective, and that this entails giving "priority to the fight against absolute poverty and to attuning the right to self-determination of peoples to the promotion and protection of civil, cultural, political and social rights;" and, 2) the right to development also "aims to integrate the right to a healthy environment in a framework of sustainable development."

The ILA report also provides a useful authoritative statement on the content of the RTD, and emphasizes the link between development as a collective human right and the values of a civil society, namely good governance, whereby people have the ability "...to limit government authority and to influence policy on the basis of universally recognized human rights."⁷⁸

2.4. Elements of the Right to Development

As far as the Right to Development is an international principle concerned, it is essential to enquire 'what sort of elements the RTD has incorporated' in international and national instruments. Accordingly, in this sub section elements of the RTD from various angles shall be discussed in light of the DRTD, VDPA, and from different sources including the FDRE Constitution.

2.4.1 From the Declaration of the RTD Point of View

The first article of the DRTD clearly puts forward the concept of the right to development and it states that:

⁷⁶ *Supra* note 3; at page 69

⁷⁷ *Supra* note 69

⁷⁸ *Ibid.*,

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

At the beginning, there is a human right that is called ‘the right to development’, and this right is “inalienable,” meaning it cannot be bargained away. Then, there is a process of “economic, social, cultural and political development,” which is recognized as a process in which “all human rights and fundamental freedoms can be fully realized.” The right to development is “a human right”, by virtue of which “every human person all peoples are entitled to participate in, contribute to and enjoy” that process of development.

Subsequent article in the Declaration clarify the nature of this process of development further and elaborate on the principles of exercising the right to development. For instance, Article 1 recognizes that not only “every human person” but “all people” are entitled to the right to development. Article 2, categorically states that: “it is the human person who is the central subject of development in the sense of the active participant and beneficiary of the right to development.” Even if “peoples” or collectives of “human persons” are entitled to some rights, such as full sovereignty over the natural wealth and resources in terms of territory, it is the individual human person who must be the active participant in and beneficiary of this right.⁷⁹

The process of development, “in which all human rights and fundamental freedoms can be fully realized,” would lead to, according to article 2, *the constant improvement of the well-being of the entire population and of all individuals, on the basis of their **active free and meaningful participation in development** and in the fair distribution of benefits resulting there from* [Emphasis added].” Article 8 elaborated this point further by stating that the measures for realizing the right to development shall ensure “equality of opportunity for all” in their access to basic resources, education, health services, food,

⁷⁹ *Supra* note52; at page 3

housing, employment and in the fair distribution of income.⁸⁰ The realization of the right would also require that women have an active role in the development process, and that “appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.”

To realize this process of development to which every human person is entitled by virtue of his right to development, there are responsibilities to be borne by all concerned parties: “the human persons,” “the states operating nationally” and “the states operating internationally.” According to article 2, “all human beings (persons) have a responsibility for development individually and collectively,” and they must take appropriate actions, maintaining “full respect for the human rights and fundamental freedoms as well as their duties to the community”. Human persons thus are recognized to function both individually and as members of collectives or communities and to have duties to communities that are necessary to be carried out in promoting the process of development.⁸¹

But “the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development” is on the states, as article 3 categorically suggests. This responsibility is complementary to the individual’s responsibility as mentioned above, and is only for the creation of conditions for realizing the right and not for actually realizing the right itself. Only the individuals themselves can realize the right. The action of the states needed for creating which conditions are to be undertaken at both the national and the international levels.

At the national level, “states have the right and the duty to formulate appropriate national development policies,⁸²” and states should undertake “all necessary measures for the realization of the right to development, “and again, “should encourage popular participation in all spheres.”⁸³ In addition, the states are required to take steps” to

⁸⁰ *Ibid.*,

⁸¹ *Id.*,

⁸² *Supra* note 4; Article 2

⁸³ *Ibid.*, Article 8

eliminate obstacles to development resulting from failure to observe civil and political rights as well as economic, social and cultural rights, “because the implementation, promotion and protection of these rights would be essential for realizing the right to development as “all human rights and fundamental freedoms are indivisible and interdependent”.⁸⁴

As regards to the obligation of the states the Declaration emphasizes the crucial importance of international cooperation. First and foremost, the states have a duty “to cooperate with each other in ensuring development and diminishing obstacles to development ... and fulfill these duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, [and] mutual interest ...”⁸⁵ This has been further repeated in article 6 of the Declaration, which states that “all states should cooperate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms.” In addition, it is also reflected in the MDGs.

All human rights and fundamental freedoms are indivisible and interdependent and their implementation, promotion, and protection of civil, political, economic, social and cultural rights deserve equal attention. Hence, failure to observe civil and political rights as well as economic, social and cultural rights may result in “obstacles to development” that the states are responsible to eliminate.⁸⁶ According to article 4 of the Declaration, *the states have the duty, individually and collectively, to formulate development policies to facilitate the realization of the Right to Development.*

The Right to Development embodies an entitlement to participate in and contribute to as well as to enjoy development.⁸⁷ This necessitates the participation of the beneficiaries of development in the articulation of policies and in the implementation of development plans, thus empowering these beneficiaries at all levels. The participation of all sectors

⁸⁴*Id.*, Article 6

⁸⁵*Id.*, Article 3

⁸⁶ *Supra* note 52

⁸⁷ *Supra* note 4; Article 1

strengthens the political legitimacy of plans as well as the scope and effectiveness of implementation mechanisms.⁸⁸

2.4.2 As stated under the Vienna Declaration and Program of Action (VDPA)

The VDPA reaffirmed “the RTD, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.”⁸⁹ This Declaration, which was supported by the US, went on to say, *human rights and fundamental freedoms are the birthright of all human beings their protection and promotion is the first responsibility of government.*

It also committed the international community to the obligation of cooperation in order to realize these rights. In effect the RTD emerged as a human right which integrated civil, political, economic, social, and cultural rights with civil and political rights in the manner that was envisaged at the beginning of the post-World War II human rights movement.⁹⁰ In this regard, the writer also shares the view that the cumulative respect of these rights leads to the fulfillment of the RTD.

The VDPA of 1993 also established the consensus about the right to development as a human right that reaffirms the solemn commitment of all states to fulfill these obligations in accordance with the Charter of the United Nations and stated as:

- states should cooperate with each other in ensuring development and elimination obstacles to development and that the international community should promote effective international cooperation for the realization of the right to development.⁹¹

⁸⁸ Commission on Human Rights, Sixty-second Session Working Group on the Right to Development High-level task force on implementation of the right to development Second meeting Geneva, 14-18 November 2005, Item 4 of the provisional agenda paragraph 10

⁸⁹ Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, *The Vienna Declaration and Program of Action*, paragraph 1

⁹⁰ Kirchmeier, Felix, *Supra*

⁹¹ *Supra* note 89; at paragraph 10

- progress towards the implementation of the right to development requires effective development policies at the national level, and a favorable as well as equitable economic environment at the international level.⁹²

Hence, one can easily deduce that the international community in this respect should make all efforts to alleviate specific problems such as the external debt burden of developing countries, support Poverty Reduction Program and supplement the efforts of the governments of these countries to come out of poverty vicious circle. This aspect shall be discussed in the next chapter from the Ethiopia's angle.

2.4.3 As Excerpted from others Sources

The Charter of the United Nations includes pursuance of development as among the goals of its agenda for economic and social cooperation, and under the Charter, states pledge to contribute within the UN system to the promotion of development and respect for human rights and commitment to 'employ international machinery for the promotion of the economic and social advancement of all peoples'.⁹³ Thus from the UN's inception, development and human rights have been closely identified.

The RTD is therefore recognized by the UN as the inalienable human right of every person and all peoples, particularly in the developing countries, that equality of opportunity for development is a prerogative both of nations and the individuals who comprise them.⁹⁴

Former President Singh of the International Court of Justice has remarked that:

...a right to development is a recognized principle of international law beyond dispute. It is founded on the principles of the U.N. Charter, namely sovereign

⁹² *Ibid.*,

⁹³ *Charter of the United Nations, See the Preamble*

⁹⁴ Bulajic, Milan, *Supra* at page 73

*equality of States, non-discrimination, the principle of inter-dependence and of international co-operation.*⁹⁵

Singh perceived a right to development in the context of North-South dynamics rather than only as an individual human right. His view implies that inequities in political and economic relationships between nation states interfere with efforts to attain and ensure the right to development as a group right of national populations as well as an individual human right.⁹⁶

There are several possibilities regarding the characteristics of the content of the right to development. These are:-⁹⁷

- First, is that the right to development is the means by which civil and political rights of individuals are realized; therefore it is a prerequisite to the enjoyment of other human rights.
- Second, the right to development is a "synthesis" of existing human rights, with its content flowing from the 1948 Universal Declaration of Human Rights and the 1966 UN Covenants. Its substance, therefore, includes existing individual and collective human rights recognized in the above instruments, such as the freedom of expression and religion and the right to adequate housing, living conditions, work, and food.
- Third, the right to development concerns the basic right of each person to life and the right to develop his/her potential "so as to live in dignity."
- Fourth, in the specific context of indigenous peoples, the right to development obliges nation states to "... recognize the right of indigenous peoples to decide democratically what values, objectives, priorities and strategies will govern and steer their development course..."

⁹⁵ *Ibid.*, at page74

⁹⁶ *Supra* note 69

⁹⁷ *Ibid.*,

Each of these examples sheds light on the meaning of the right to development at present, and suggested that it is a 'multi-faceted' right.

2.4.4. Under the FDRE Constitution

Economic, social, cultural and political development of the human person as a single member of an entire people is embedded to a broader national and international context. In this regard, the improvement of the quality of life of human beings is the first and foremost objectives of every effort towards fulfillment of the RTD. From this stand point when one closely looks into the FDRE Constitution and the elements of the RTD. It is imperative to examine the whole terminologies embodied in article 43 of the constitution. Accordingly, there are two basic principles under article 43 (1) stated as sustainable development and the right to improved living standards.

It is also very important as elements of the RTD in the FDRE Constitution to look into the terminologies in depth. Hence, what does "sustainable development mean? What does" the right to improved living standard "imply? And how does the RTD relate to the 'three legged stool' model or the 'three circles' model of sustainability?

As to the meaning of the concept of 'sustainable development', it is most often defined as "a development that meets the needs of the present without compromising the ability of future generations to meet their own needs."⁹⁸ Hence, the term 'sustainable development was popularized by "Our Common Future," It also further explained as "progress in human well-being that can be extended or prolonged over many generations rather than just a few years."⁹⁹

The International Union for the Conservation of Nature (IUCN) also expands on the Brundtland definition of "sustainable development stating "...sustainable development means achieving a quality of life, or standard of living, that can be maintained for many generations." Some feel that the concept of "sustainable development" concern social

⁹⁸The 1987 World Commission on Environment and Development (WCED) Paragraph 2:1

⁹⁹ Cunningham, William et al., *Environmental Science: A Global Concern*, 8th ed., (2005) at page14

and cultural as well as economic development.¹⁰⁰ Others view the inclusion of the phrase “sustainable development” in the FDRE Constitution as a term of uncertain meaning and inconsistent with the desire for a required economic development.¹⁰¹

Apparently, there is no universally agreed definition of the concept “sustainable development”. However, as reflected in the Brundtland Report another meaning of the term related with environment is stated as:

[a]t a minimum, sustainable development must not endanger the natural system that support life on Earth: the atmosphere, the waters, the soils and living beings.

Hence, from this Report some argued that the “emphasis is very clearly on meeting social and economic objectives rather than ecological ones” while other suggest that the term signifies a call for remedying environmental decay.¹⁰²

In relation to the principle of the right to development, Arjun Sengupta proposed that the progressive realization of the RTD can be described in terms of an improvement of a “vector” of human rights which is composed of various elements that represent different economic social and cultural rights, as well as the civil and political rights. All these rights, in turn are dependent on each other enabling any improvement in the well being of the entire population and the realization of the rights to be sustainable.¹⁰³

The concept of ‘sustainable development is also embodied as one of the agendas of other International Conference on the Environment Development issues.

The International Community has increasingly expressed concern about the welfare of future generations particularly in response to the alarming degradation of the global environment. This concern for future generations indicated in the 1971 Stockholm Declaration and it is stated as: *to defend and improve the human environment for present*

¹⁰⁰ Handl. G. *Supra*, at page 107

¹⁰¹ Minasse Haile, In Suffolk Traditional Law Review Vol-20:1 (1996): *The New Ethiopian Constitution: Its Impact upon Unity Human Rights and Development* (1996) at page 70

¹⁰² *Ibid.*, at page 72

¹⁰³ *Supra* note32; at page3

and future generations had become an imperative goal for mankind. In this case, the needs and aspirations of both present and future generations are the measure value.¹⁰⁴

The Rio Declaration associates inter generational equity with the right to development providing in principle 3 that reads” the right to development must be fulfilled so as to equitably meet of present and future generations.”¹⁰⁵ However, the representation of future generations and their interests in current considerations of the environment presents theoretical problems which raise a debate of what the obligation is to give environmental resources to future generations.¹⁰⁶

The Rio Declaration also emphasized the role of development as “[a]ll states shall cooperate in the essential task of eradicating poverty as indispensable requirement for sustainable development.”¹⁰⁷

As regards one of the important elements of sustainable development, it is the commitment to integrate environmental considerations into the needs of economic and other social development in applying and interpreting environmental obligations.

At this juncture, one may inquire that how the term ‘sustainable development’ is used in the FDRE Constitution? From different sources stated above some still argue that the term ‘sustainable development’ tends to be technical in meeting the desire of developed nations and imposes obligation in least developing country like Ethiopia.

Furthermore, it can be argued that the inclusion of the concept of sustainable development in the constitution seems premature which holds true for the entire implementation of article 43 of the constitution. Still others argue why should Ethiopia’s economic development is subordinated to the global concern by inserting the concepts of “sustainable development” since they believe that it may weaken bargaining positions with the developed nations. They also argue that the terminology used in the Amharic

¹⁰⁴ Messaye Demissie, *Rights and Obligations of States to Protect and Preserve the Environment* University of Amsterdam (2001) HOPR Archive (unpublished) , at page 68.

¹⁰⁵ *Ibid.*, at page 69

¹⁰⁶ *Id.*,

¹⁰⁷ Minasse Haile, In *Suffolk Traditional Law Review* Vol-20:1 (1996): *Supra* at page 74

version in equivalent of “sustainable development” is something like “uninterrupted development”¹⁰⁸ which does not seem to relate with the whole concept of “sustainable development” as discussed above.

There are also others who argue that in the strict sense of the term ‘sustainable development’ is not a legal concept. Given the situation in Ethiopia, natural and man made factors easily impacts our economy. So, how come ‘sustainable development’ is accountable? They enquired that: ‘what are the concept and the practice?’ Where is the practical framework within which ‘sustainable development’ can be figured? They conclude that conceptually ‘the right to sustainable development’ is blurred.

In the contrary some sources frequently suggest that sustainable development is a pattern of resource use that aim to meet human needs while preserving the environment so that these needs can met not only in the present, but in the indefinite future.¹⁰⁹ Hence, it is common to see the fields of sustainable development conceptually broken into three constituent parts such as “environmental sustainability, economic sustainability and socio political sustainability.”¹¹⁰

There are also others who strongly argue that there is no place on earth the principle of sustainable development is not valid. The alternative on the ground is either to destroy our earth/world or protect for the future. Hence, we should make development sustainable.

As the central theme of this research addresses the applicability of the right to development in terms of social, economic and environmental interrelationship, the writer applauds the second view in which sustainable development is valid to keep our development pass to the next generation. It seems imperative for Ethiopia’s development in general. Hence, it is significant to examine the concept of sustainable development from its constituent elements.

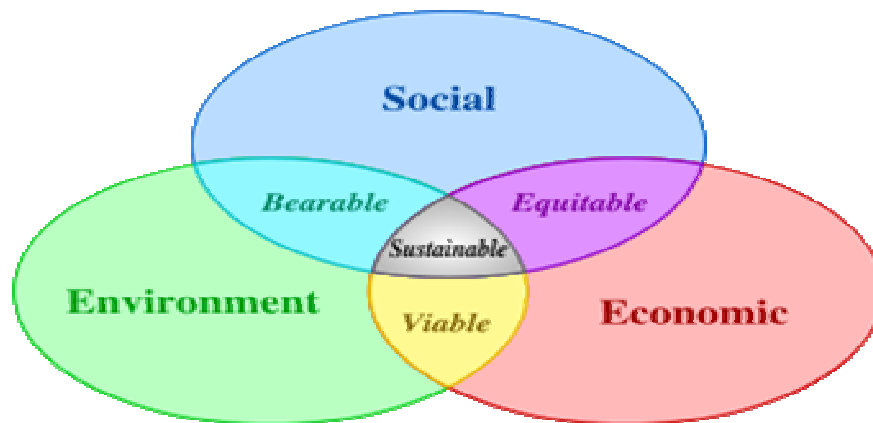
¹⁰⁸ *Ibid.*,

¹⁰⁹ www.wikipedia.the.free.encyclopedia. Visited on 7/15/08

¹¹⁰ *Ibid.*,

Accordingly, sustainable development does not focus solely on environmental issues. The United Nations 2005 World Summit outcome Document refers to the "interdependent and mutually reinforcing pillars" of sustainable development as economic development, social development, and environmental protection.¹¹¹

According to Hasna, 'sustainability' is a process which tells of a development of all aspects of human life affecting sustenance. It means resolving the conflict between the various competing goals, and involves the simultaneous pursuit of economic prosperity, environmental quality and social equity famously known as three dimensions. See the diagram below.



Scheme of sustainable development: at the confluence of three constituent parts source: [www.wikipedia](http://www.wikipedia.org) the free encyclopedia.

The explanation for the above diagram from the three dimensions of development can also be seen from the sustainable development angle. In this regard, the message in the diagram can be understood in a way that when the environment linked with social interest, it will be bearable, when environment is linked with economic interest the outcome will be viable, when social interest is linked with economic interest, it will be on equitable basis. Hence, the environment linked with the socio-economic development

¹¹¹ *Id.*,

amounts to sustainable development and vice-versa. Therefore, one cannot separately treat the three competing goals from sustainable development.

Another important principle embodied in article 43(1) of the FDRE Constitution is “the right to improved living standards” the aspiration of the country for improved standards of living is clearly stated as one element of right to development.

On top of this, the “the right to participate in national development” and “the right to be consulted with respect to policies” are one of the issues to be discussed as elements of the RTD under article 43 (2) of the FDRE Constitution. In this regard, the principle of participation according to which all beneficiaries and agents involved with implementation of the RTD are entitled to participate in, contribute to, and enjoy the result of the process of development.¹¹² Furthermore, Development Agenda 21 emphasizes that broad public participation in decision making is a fundamental prerequisite for achieving sustainable development.

In practice the principle of participation is concerned with access to decision making and the exercise of power in the execution of projects, which lead up to the program for development.¹¹³ In this regard, the writer observed that there is no unique model of participation. So, there should be special provision or procedure to be drawn up and implemented in order to ensure participation.¹¹⁴

The writer believes that participation plays a pivotal role in the implementation of the RTD. Hence, it can be considered as one essential element of the RTD. From this stand point, the inclusion of this concept in the FDRE Constitution reflects expression of sovereignty of the people and that the form, quality, democratic nature and effectiveness of participatory process, mechanisms and institutions are the central and essential indicators of progress¹¹⁵ for the realization of the RTD in the Ethiopian context as well.

¹¹² *Supra* note 4; Article 1

¹¹³ *Supra* note 32; at page 15

¹¹⁴ *Ibid.*,

¹¹⁵ Konrad, Ginther, “*The Domestic Policy Function of a Right of People to Development: Popular Participation a New Hope for Development and a Challenge for Discipline*”, In the Right to Development International Law, at page 64

In addition to this, participation enhances the productive capacity of the people. It thus one can easily see that popular participation is an indispensable input in the realization of the RTD.¹¹⁶

Therefore, the right to participate involves participation at every stage of a development project.¹¹⁷ Apart from this, in order to maintain development for the benefit of the public at large there should be a clear procedure from the very beginning when any development project is in place. For instance, recognition of decentralized decision making implementation process as in various policies maintain citizens to participate in the overall development activities of the country. Apparently, the overall concept of participation will be discussed in depth in the next chapter.

Still another basic aspect of the RTD which is enshrined under the FDRE Constitution is stated as:

*At the basic aim of development activities shall be to enhance the capacity of citizens for development and to meet their **basic needs**.*¹¹⁸
(Emphasis added)

The constitution further stipulates that: *to the extent resources permit government policies shall aim to provide all Ethiopian access to public health and education, clean water, housing, food and social security.*¹¹⁹

This basic needs approach as a policy priority is also criticized in such a way that as the constitution outlines only the consumption part of development in meeting the basic need and on the other side did not emphasize the investment aspect to meet the basic needs.¹²⁰ The critic also forwards the view that the only way by which a society can meet the basic

¹¹⁶ *Ibid.*,

¹¹⁷ *Supra note 57*

¹¹⁸ *Supra note*; Article 43(4)

¹¹⁹ *Ibid.*, Article 90(1)

¹²⁰ *Supra note 10*; at page 80

needs without economic growth is either by redistribution of wealth which is prevented by the general poverty of Ethiopian or through massive foreign assistance which is not a likely event.¹²¹

Stemart Frances comments that; 'the Right to Development' has even stronger implications in relation to international obligations than the basic needs.¹²² He also noted that the principle of "Progressive realization" is indicated in covenants like ICCPR. Hence, the rights in question is recognized rather than declared or ensured. So, to take steps towards the realization of the rights recognized with a view to achieving progressively to the maximum of its available resources becomes indisputable.¹²³

2.5 Overviews of the Right to Development in the Internationals Perspectives

2.5.1 Charter of the United Nations and other Sources

The preamble of the Declarations of the Right to Development refers to the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature and in promoting and encouraging respect for human rights and fundamental freedoms.¹²⁴ This reference is to articles 1, 55 and 56, of the Charter of the United Nations. According to those articles, member states pledge themselves to take joint and separate actions to promote commitment to international development.¹²⁵

The Chapter of the United Nations recognized the obligation of international cooperation by virtue of which the international organizations are expected to cooperate with nation-states to enable them to fulfill the human rights of all individuals including the right to development.¹²⁶ Accordingly, the Bill of Rights, the Declaration on the RTD and other

¹²¹ *Ibid.*, at page 81

¹²² Stemart France, *Basic Needs Strategies, Human Rights and the Right to Development* (1988) at page 36

¹²³ *Ibid.*, at page 14

¹²⁴ Weerelt, V. Patrick, *Supra* at p. 148

¹²⁵ *Supra* note 52; at page 4

¹²⁶ *Supra* note 32; at page 22

international human rights instruments including the 1993 Vienna Declaration and Program of Action formally acknowledged the RTD as a human right and called for cooperation of all states to maintain development for the international community. From this assertion a number of international lawyers have similar position in that the RTD is not a new right but implied by the UN Charter.¹²⁷

Regionally, the RTD was recognized in a legally binding document by the African Charter on Human and Peoples' Rights in 1981. The African Charter acknowledged the right of all peoples to development and their right to enjoy on a basis of equality of the common heritage of mankind.¹²⁸

As noted earlier, in 1972 the discussion on the discussion on the RTD was introduced by the first president of the Supreme Court of Senegal and later member of the International Court of Justice, Keba M'Baye. Moreover, President Senghor of Senegal addressing the African Experts in Dakar said. "Our overall conception of Human Rights is marked by the RTD since it integrates all economic, social and cultural rights and also civil and Political Right".¹²⁹ Hence, the idea of a right to development appears to be African origin.

There are also various principles of international development law as a basis of the RTD such as the principle of international solidarity.

2.5.2. MDGs and Targets

The Millennium summit, in September 2000 adopted the United Nations Millennium Declaration. This Declaration has mainstreamed a set of inter-connected and mutually reinforcing development goals and targets into a global agenda. In its center to development and poverty eradication 147 heads of State and Government and 191 nations committed to making the right to development a reality for everyone.¹³⁰

¹²⁷ Charter of the United Nations -Article 1 paragraph 3 and Article 55 can be cited as instance

¹²⁸ African Charter of Human and Peoples' Rights (1981), Article 25.

¹²⁹ Bulajic, Milan, *Supra* at page 364

¹³⁰ *Supra* note 40

From this international commitment, one can easily understand that the focus of the RTD was paramount at the beginning of the millennium in the development issues. So, it is not surprising that the debates on the RTD have focused on the application of this right in the context of the Millennium Development Goals (MDGs) whose overall aim is to better the economic and social situation of developing countries.¹³¹

The researcher also believe that it is important to examine the applicability of the right to development in the Ethiopian context since MDGs put in place at the country level and it should also be implemented in line with development goals and strategies of Ethiopia. Hence, harmonization of the MDGs in the country context is indispensable.

The Millennium Declaration can also be taken as a call for all nations to come together in the name of unity and for addressing the current major challenges like poverty reduction and human well-being which is expected to enhance the commitment and resolve of nations to fight poverty, hunger and human misery.

The MDGs are those goals for development that were named in the Millennium Declaration. There are eight main goals split up into eighteen specific targets and indicators. The eight goals with their respective targets are stated as:

- 1) *Eradicate extreme poverty and hunger:*
 - *Reduce by half the proportion of people living on less than a dollar a day*
 - *Reduce by half the proportion of people who suffer from hunger.*
- 2) *Achieve universal primary education:*
 - *Ensure that all boys and girls complete a full course of primary schooling*
- 3) *Promote gender equality and empower women:*
 - *Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015.*
- 4) *Reduce child mortality:*

¹³¹ Kirchmeier, Felix, *Supra* at page17

- *Reduce by two thirds the mortality rate among children under five.*
- 5) *Improve maternal health:*
- *Reduce by three quarters the maternal mortality ratio.*
- 6) *Combat HIV/AIDS, malaria and other diseases:*
- *Halt and begin to reverse the spread of HIV/AIDS.*
 - *Halt and begin to reverse the incidence of malaria and other major disease.*
- 7) *Ensure environmental sustainability:*
- *Integrate the principles of sustainable development into country policies and programs; reverse loss of environmental resources.*
 - *Reduce by half the proportion of people without sustainable access to safe drinking water.*
 - *Achieve significant improvement in lives of at least 100 million slum dwellers, by 2020.*
- 8) *Develop a global partnership for development:*
- *Develop further an open trading and financial system that is rule-based. Predictable and non-discriminatory, includes a commitment to good governance, development, and poverty reduction- nationally and internationally*
 - *Address the least developed countries special needs. This includes tariff and quota-free access for their exports, enhanced debt relief for heavily indebted poor countries, cancellation of official bilateral debt, and more generous official development assistance for countries committed to poverty reduction.*
 - *Address the special needs of landlocked and small island developing states*
 - *Deal comprehensively with developing countries debt problems through national and international measures to make debt sustainable in the long term.*
 - *In cooperation with the developing countries, develop decent and productive work for youth.*

- *In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries.*
- *In cooperation with the private sector, make available the benefits of new technologies – especially information and communications technologies.*¹³²

Some argue that the MDGs are generally believed to be minimum benchmarks rather than the ultimate development.

The RTD has been dealt within various ways within the framework of the UN. After the adoption of the Declaration by the General Assembly and its unanimous reaffirmation by world leaders at the 1993 Vienna World Conference, the application and interpretation of the RTD has occupied the sub – commission as well as working Groups an Independent Expert of the Commission on Human Rights and the High Level Task Force from 1996 - 2004.

During opening statement at the 6th sessions of the Working Group in February 2005, chairperson of the Open-ended Working Group on the RTD said:

The process on the right to development is moving slowly from generalities to specifics, from vagueness to clarity, from claims to proposals, and in one word from the conceptual to the operational.

The questions that were raised during the first meeting of the High Level Task Force (HCTF) in December 2004 includes how human rights or a human rights based approach to development and the efforts to achieve the Millennium Development Goals MDGs.¹³³ From this concerns development partnerships were seen as one practical way to realize the RTD.

Ethiopia's first Millennium Development Goals Report (MDGR) examines the implications of the MDGs for the country from the perspective of context, past trends,

¹³² *Ibid.*,

¹³³ *Id.*, at page 20

prospects and resource requirements for their realization. In terms of context, the Report finds that the MDGs are timely and of utmost urgency to the reality is crucial in any serious development program the interconnections that exists among the MDGs each in the Ethiopian context support the view that each goal is equally important and relevant for Ethiopia.¹³⁴

The contextual analysis has also addressed the issue of MDGs harmonization with the existing government policies, strategies and Programs and past performances. It also pointed out that Ethiopian's challenge to meet all the targets set in MDGs is understandably not easy.¹³⁵

As discussed above in different sub topics, Ethiopia has recognized the principle of the right to development in the FDRE Constitution and further stated the guiding principles that pave ways to implementation through development strategies plan and programs. As Ethiopia is one of the pilot MDG countries, it has adopted Sustainable Development Poverty Reduction Program (SDPRP) and PASDEP consecutively. The MDGs Need Assessment Synthesis Report Clearly puts that “without sustainable and accelerated growth Ethiopia's goal of reaching the MDGs and more generally fostering human development cannot be achieved.”¹³⁶

Therefore, in order to examine the applicability of the concept of the right to development in a sustained manner there should be a close look at the socio-economics aspect of the country in different angles and it will be critically analyzed in the next chapters.

2.6. Obstacles to the Right to Development in General

The Right to Development was publicly proposed as a human right nearly thirty-five years ago. Twenty one years since the General Assembly officially recognized this right

¹³⁴ Millennium Development Goals Report: Challenge, and Prospect for Ethiopia: MoFED & UN Country team (March 2004) Addis Ababa.

¹³⁵ *Ibid.*,

¹³⁶ Ethiopia: MDGs Need Assessment Synthesis Report (MoFED) (2005) at page 17

in a Declaration, fifteen years since a consensus involving all governments was reached on the Right to Development, and almost ten years since the Open Ended Working Group was established and the Independent Expert on the Right to Development.¹³⁷

Arjun Sengupta, was mandated to present to the working group at each of its sessions a study on the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, *inter alia*, the deliberations and suggestions of the working group.¹³⁸

According to Stephen Marks, there are three sets of obstacles to realizing the right to development and indicate how the Right to Development Project is beginning to deal with them. The first relates to the politics of the right to development, that is, the unavoidable yet quite unproductive tensions that arise as governments seek to use the RTD to advance conflicting perceptions of national interests. The second concerns the epistemology of the RTD, specifically, the theoretical and empirical basis on which one can speak knowledgeably about RTD. The third focuses on what changes in national and international policy would need to occur before RTD would be taken seriously in practice.¹³⁹

As regards the first obstacle to the realization of RTD, it is obvious to anyone who observes the meetings of the various working groups on the right to development and the Commission on Human Rights that the political discourse is characterized by posturing of predictable positions rather than practical dialogue on the implementation of the right to development.¹⁴⁰

From the beginning, the concept of the RTD has been controversial. It emerged from the legitimate preoccupation of newly independent countries with problems of development and the dominance of East-West issues on the agenda of the Commission on Human Rights, marginalizing the concerns of the political South. Their effort to use the United

¹³⁷ Marks, Stephen, *Obstacles to the Right to Development*, Harvard University Press (2003) at page 1

¹³⁸ Commission on Human Rights Resolution 1998/72, adopted without a vote on 22 April 1998

¹³⁹ Marks, Stephen, *Supra* at page 2

¹⁴⁰ *Ibid.*,

Nations to advance the idea of a New International Economic Order (NIEO) has encouraged Third World delegations. But the challenge to the prevailing order favoring First World countries –to use the classification of the Cold War – generated a reaction among Western delegations that ranged from cautious support to outright hostility for the idea of a human right to development.¹⁴¹

As regards the second obstacle to the realization of the right to development, is that of ignorance. At the conceptual level, much can be done to improve thinking about how the RTD relates to development and human rights theory in the scholarly community through academic publications, deliberations of learned societies, and teaching in universities. In addition to the weakness of conceptual thinking on RTD in the human rights and development literature, there is also a lack of empirical knowledge.

The challenge of bringing the abstract concepts of the 1986 Declaration down to the level of development practice require an in-depth understanding of how decisions are made, what pressures influence priority-setting and how stakeholders deterring the process, Since 1981, the Commission on Human Rights has mandated every working group on RTD to focus on implementation. In this regard, the first working group drafted the Declaration but had not proposed much implementation by its expiration in 1989.

The second Working Group looked at obstacles to implementation and in 1994 submitted preliminary guidelines and a checklist.¹⁴² The aim of the checklist was to facilitate discussion between the Working Group and governments and international bodies on issues pertaining to the role and function of RTD in policies and programs relating to development. This is believed to be significant source or framework for intellectual approach to the RTD.

With regard to a third obstacle to the realization of the right to development, it is the absence of practice of RTD, resulting from the absence of policies at the national and international levels that go beyond lip service to the concept and that set priorities and

¹⁴¹ *Id.*,

¹⁴² Marks, Stephen, *Supra* at page 49

allocate resources based on the RTD. As to the writers view the challenge here is to make the right to development a priority in development policy as reflected in national international strategies, programs, and practice.

At the national level, Stephen Mark viewed as: “the current situation is that ministries of foreign affairs of most countries instruct their delegates to the Commission on Human Rights and the General Assembly to vote for the right to development and support the concept in speeches. However, it is unlikely that the reference to RTD in these foreign policy positions has much significance as a matter of national development policy and practice”.¹⁴³

The Independent Expert Group concluded its report by noting that the right to development has not been realized during this period of accelerated globalization “because appropriate policies for realizing the right to development have rarely been adopted.”¹⁴⁴ For example, “in designing and implementing the appropriate policies, the objectives should be clearly set at realizing the rights-based process of development.”¹⁴⁵ The report further stated that “absence of clear national and international policies integrating the RTD approach into the development process is a formidable obstacle.”

Stephen Marks suggested that the process begun in 1998 with the appointment of the Independent Expert has the potential of changing the politics, epistemology and practice of RTD, and thus changing the ways in which governments and their development partners understand and implement strategies of development and poverty eradication.¹⁴⁶ In addition to the obstacles mentioned above, particularly in the Ethiopian case poverty itself is an obstacle to the realization of the RTD. The writer upholds this view in that public participation is very important constitutive element of the RTD; however, deep poverty will remain impede the people from effective participation.

¹⁴³ *Ibid.*, at page 13

¹⁴⁴ *Preliminary Study of the Independent Expert on the RTD, Submitted in Accordance with Commission Resolutions 2001/9 and 2002/69, UN doc.E.CN.4/2003/WG.18/2 December 2002*

¹⁴⁵ Marks, Stephen, *Supra* at page 19

¹⁴⁶ *Ibid.*, at page 20

CHAPTER THREE

3. Implementation of the Right to Development in Light of Socio - Economic Development in Ethiopia

4.3 The Socio Economic Perspectives

4.3.3 Policies, Strategies and Programs of PASDEP

The FDRE Constitution has legitimized a Federal type of state structure, whose constituent parts are nine regional states including two chartered city administrations.¹⁴⁷ Apart from this, the preamble of the constitution put emphasis on the issue of advancing common economic and social development and ensuring lasting peace. The Constitution also recognizes the basic civil and political rights enshrined in International Human Rights Instruments such as the International Covenant on Civil and Political Rights, International Convention on the Economic Social and Cultural Rights, Declaration on the RTD and other International Human Rights Instruments including the 1993 Vienna Declaration and Program of Action which formally acknowledged the RTD as a fundamental human rights that have been ratified by Ethiopia.¹⁴⁸

The Copenhagen Declaration on social development (in its section of *the principles and goals*). For instance, governments "committed" themselves to "create a framework for action...to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, including the right to development..."¹⁴⁹ The same declaration also added that all organizations and local institutions and local authorities, and all actors of civil society need to positively contribute their own share..."

150

¹⁴⁷ *Supra* note 13; Article 47

¹⁴⁸ *Ibid.*, Article 13(2) and 9(4)

¹⁴⁹ World Summit for Social Development Copenhagen 1995, paragraph 26(j)

¹⁵⁰ *Ibid.*,

The Declaration on the Right to Development also confirmed the RTD as an inalienable human right and equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and the individual as the central subject and beneficiary of development. Hence, it is crucial to examine how the RTD is addressed in developmental policies, strategies and programs of the country so long these all instruments are supposed to be the vehicles to the full realization of the right itself.

To mention, during the transitional period¹⁵¹ the government of Ethiopia set a new direction for the economic reconstruction and social rehabilitation. It is thus a spate of new policies and strategies deeming the development priorities and goals were introduced. Among these were the national policies such as Agriculture Development Led Industrialization (ADLI), the Education Sector Strategy, and the Conservation Strategy were to be mentioned.

Generally speaking, after the end of cold war various economic strategies have been attempted in many developing countries over the years. Almost continually, the objectives of these various strategies have been to enhance economic performance and thereby improve the living standards of the population living in those countries. While the degree of success or failure of these strategies varies from place to place.¹⁵²

In the global approach, the Poverty Reduction Strategy (PRS) was recent in a long line of strategies that have espoused to tackle the vicious cycle of poverty in the least developed countries like Ethiopia. This strategy came into being following the dismal economic performance of these countries under the Structural Adjustment Programs (SAPs) in the early 1990s. The SAPs were sponsored by the international financial institutions¹⁵³ that mainly relied on liberal market structures emphasizing 'getting the prices right' to boost economic growth and thereby improve the living conditions of the population.

¹⁵¹ From the time 1991-1995

¹⁵² Haile Kebret, *Assessment of the Poverty Reduction Strategy in Ethiopia*, In *Assessment of the Poverty Reduction Strategy in Sub-Saharan Africa: The Case of Ethiopia*, published by OSSERA (2007) at p. 42

¹⁵³ The IMF and the World Bank

The Poverty Reduction Strategy notably differs from the Structural Adjustment Programs based on the following three ways;¹⁵⁴ first, poverty is defined as a much broader concept that encompasses not only the traditional income poverty but also other social and political entitlements that are believed to enrich wellbeing. Such entitlements include basic human rights and provisions of basic 'needs like education and health.

The second significant difference lies in the process in which PRSs are to be designed, implemented and monitored. That is, the process, at least in principle, is country owned and to be designed via full consultation with various stakeholders at the grassroots level. Hence, policy designing, prioritization of sectors, setting of targets and monitoring of outcomes are to be carried out in a transparent and inclusive manner at all stages of the process.

The third major difference pertains to the shift in financing arrangements initiated by international institutions, namely the International Monetary Fund (IMF) and the World Bank. The IMF replaced the Enhanced Structural Adjustment Facility (ESAF) by the Poverty Reduction and Growth Facility (PRGF) as a basis for future lending and grants arrangements. Hence, access to flow of resources from lending and debt relief emanating from the Highly Indebted Poor Countries (HIPC) initiative were to be based on the formulation and further implementation of Poverty Reduction Strategies Papers (PRSPs) by each qualifying country a precondition, this strategy was envisaged to focus on pro-poor expenditures, country-owned growth strategies and on a process that was transparent and consistent with the priorities of local citizens as articulated during the consultations processes to prepare the PRSPs.

Accordingly, each qualifying country has been globally engaged in the process of preparing PRSPs since 1999.¹⁵⁵ Ethiopia, as one of the poor and highly-indebted countries, released its provisional Poverty Reduction Strategy Paper (PRSP) in 2001 to qualify for the multilateral support initiated under the IMF's PRGF. And consequently, it

¹⁵⁴ *Supra* note 152

¹⁵⁵ *Ibid.*, at page 41

prepared its full poverty reduction strategy entitled "Sustainable Development and Poverty Reduction Program" (SDPRP) in July 2002. The writer believes that these preparations of documents or formulations of policies facilitate the country's commitment to fully realize the elements contained in the principle of the RTD.

In this regard, the Ethiopian SDPRP was framed in four general policy pillars. These are:

- i) Agricultural Development-Led Industrialization (ADLI) and Food Security,
- ii) Justice System and Civil Service Reform,
- iii) Governance, Decentralization and Empowerment, and
- iv) Capacity Building.

The socio economic developments during the SDPRP in the fiscal year 2003/2004 and the aforementioned development policies, the overall macro economy was performed better in relative to pervious years due to favorable weather conditions. By then, it was recorded as a significant improvement, reversing the decline in GDP by about 3.9 per cent in the preceding year.¹⁵⁶ In relative terms, the agriculture and the service sectors performed well attaining double digit figures.

As per the data gathered and indicated in agricultural and development sub topic beneath, the performance of the Ethiopian macro economy was unstable in its cyclical movements. Hence, some economist researchers suggested that the situation of ups and downs mainly due to the dominance of agriculture which is vulnerable in relation to nature.¹⁵⁷

With regard to the SDPRP implementation and the progress made in terms of specific achievements, the basic requirements of process was participatory approach in which

¹⁵⁶ *Id.*,

¹⁵⁷ *Id.*,

various stakeholders contribute to the development of the program through various consultations with various segments of society.¹⁵⁸

As indicated in Article 1 of the DRTD, policies, strategies and development programs have a paramount importance to bring about accelerated socio economic development of a given country, and it is thus the writer believes that all the necessary steps should be taken to ensure the full exercise and progressive enhancement of the principle of the RTD in Ethiopia. At this juncture, it has to be noted that the FDRE Constitution set socio-economic principles and objectives whereby all policies formation, adoption and implementation, legislative and other measures at all levels should be guided thereof.¹⁵⁹ Hence, government shall at all times promote the participation of the people in the formulation of national development polices and programs.¹⁶⁰ Now let us see some details about the implication of participatory approach to sustainable development.

4.3.4 Participatory Approaches in General

As conventionally understood, ‘participation’ means “involving people in projects and programs where such involvement could assume a variety of forms” if people take part in decisions concerning the choice of projects, means of financing, design, implementation, and evaluation, then their involvement may be characterized as comprehensive. But, this is a rather rare occurrence; in most cases their involvement is confined to certain aspects of implementation.¹⁶¹

In the context of human development, participation means that “people are closely involved in the economic, social, cultural and political processes that affect their

¹⁵⁸ *Id.*, at page 59

¹⁵⁹ *Supra* note 13; Article 85(1)

¹⁶⁰ *Ibid.*, Article 89(6)

¹⁶¹ Eshetu Chole, *The Role of Enhancing People’s Participation in Poverty Reduction* Discussion Paper Prepared for the Fourth Anglophone Africa Regional Poverty Seminar, organized by the World Bank, Bahir-Dar, Ethiopia, 11-15 March 1996. at page 1

lives’’.¹⁶² The essence of participation is empowerment, i.e., ‘‘that people have constant access to decision-making and power’’.¹⁶³

Participation has at least three dimensions: economic (participation in markets); political (participation in governance); and social and cultural (participation in community organization).¹⁶⁴ Economic participation essentially means access to markets: both factor product and markets (e.g. labor markets and markets for goods and services). The virtue of free markets is that they create opportunities for the exercise of choices and for enhancing efficiency. But, markets are seldom neutral arbiters; in fact, they are often not free and, in an environment of unequal opportunities, they have a tendency to marginalize the poor and the powerless.¹⁶⁵

To that end, the FDRE Constitution implicitly provides that participation of nationals in national development issues is part and parcel of the principle of the RTD and also emphasized as one of the economic objectives where the government has a duty to support the initiatives of the people in their development endeavors.¹⁶⁶ Thus, the writer safely argues that the applicability of the RTD emanates from the legal frame work of the country as indicated above.

Social and cultural participation is also imperative which refers to people’s involvement in social and cultural life. They can participate in decision making either as individuals or in groups. The extent to which people can freely associate in groups (e.g., labor unions, farmers’ organizations, NGOs, etc.) determines the existence or non-existence of a strong civil society.¹⁶⁷ The important point is ensuring organizations that operate outside the orbit of the state are powerful enough to influence decision-making.

¹⁶² UNDP, Human Development (2008)at p.21

¹⁶³ *Ibid.*,

¹⁶⁴ Eshetu Chole, *Supra* at page 9

¹⁶⁵ *Ibid.*,

¹⁶⁶ *Supra* note 13; Article 89(6)

¹⁶⁷ Eshetu Chole, *Supra*

Based on the data gathered through interview, some argued that: the RTD is not independent right, it is related right like the right to natural resource, water resource and land policy that should be interlinked with economic agenda and must involve nationals at all levels. They also added that clear mechanism of participation is needed.

One can enquire that why participation is required? Human development is about widening people's choices; the objective is a better quality of life for all people: longer and healthier life, better education, and a higher standard of living. These are goals that are desirable in themselves.¹⁶⁸ Hence, participation is an important ingredient of the process of widening human choices. It gives people a sense of personal fulfillment. It also gives the people an opportunity not only to realize their own potentials more fully but also to contribute to the evolution of a better society.¹⁶⁹

One can also examine from different angles 'why participation is needed for development activity', it is because participation is a means for promoting development through more active participation, people are provided an opportunity to contribute to the formulation and execution of policies, strategies and programs that reflect their need and concern.¹⁷⁰

Participation also gives people a more effective say in decision making processes, it provides opportunities for the formulation of policies that promote their interests. It also gives them greater stake in their effective implementation.¹⁷¹

Moreover, participation is a means for helping maximize the use of human capabilities and the mobilization of resources. It is therefore an instrument for promoting human development, including poverty reduction.¹⁷² As far as the existence of poverty¹⁷³ is

¹⁶⁸ *Ibid.*,

¹⁶⁹ *Id.*,

¹⁷⁰ *Id.*,

¹⁷¹ *Id.*,

¹⁷² *Id.*,

¹⁷³ The conventional meaning of poverty equates it with low income. Absolute poverty has been defined as "a condition of life so limited by malnutrition, illiteracy, disease, squalid surroundings, high infant mortality, and low life expectancy as to be beneath any reasonable definition of human decency" (Watkins, p. 15, quoting former World Bank President Robert Mc Namara). It is usually defined in terms of what it takes to buy a basket of goods and services deemed necessary for meeting the most elementary necessities of life. While income is an important factor in defining poverty, it is by no means the sum total. Poverty is

concerned, it probably hampers ensuring effective participation and also a serious obstacle. For instance, for those who are living in absolute poverty, the struggle for survival and basic livelihood is a full-time engagement and at the end of the day they will not have opportunity for participation.

Even if poor people see the need and feel the desire to participate more actively in a society's economic, political and social life, but they have neither the time nor the energy to exert any effort in this direction. So, the despair that poverty breeds imposes barriers to participation in economic, political and social life. Nevertheless, there can be no effective Poverty Reduction without Participation. This seems a paradox of poverty and participation.¹⁷⁴

According to article 8(3) of the FDRE Constitution, the sovereignty of the people is expressed through their direct democratic participation. Moreover, the FDRE Constitution in its provision of the RTD (article 43 (2)) clearly provided that: *nationals have the right to participate in national development and, in particular, to be consulted with respect to policies and projects affecting their community*. Based on this constitutional rule, one can safely argue that ensuring public participation in different development activities in general amounts to realizing constitutionally guaranteed right of the people. However, in practice there are no specific guidelines for public participation in place.¹⁷⁵

From the very essence of the principle of the RTD States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis

more than a matter of low incomes. It also means lack of access to basic health services, clean water, and other public services. And, as pointed out by Robert Chambers, it also entails such elements as social inferiority, isolation, physical weakness, vulnerability, seasonality, powerlessness and humiliation. It also often involves existence in a physically insecure and unhealthy environment. These dimensions of poverty cannot be fully captured by income figures.

¹⁷⁴ *Supra* note 152

¹⁷⁵ Mellese Damtie and Mesfin Bayou, *Overview of Environmental Impact Assessment in Ethiopia: Gaps and Challenges*. Published by MELCA Mahiber. Addis Ababa, Ethiopia (2008) at page 58 [http://www.melca-ethiopia.org/overview %20of %20EIA- bookhtml.pdf](http://www.melca-ethiopia.org/overview%20of%20EIA-bookhtml.pdf), (visited on 10/03/2009)

of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.¹⁷⁶ As discussed above the importance of participation in development activities, in line with economic and social sectors shall also be examined in the next sections.

4.4 Performance of Selected Economic and Social Sectors

To examine performance of economic and social sectors of a given country, it is very imperative to frame a time boundary as well as sectorial areas of activities. However, in these sections of the research the time aspect is limited on the implementation span of the PASDEP and with regard to the sectorial activities in terms of economic and social sectors, it is thus emphasized on agricultural development, water resource development, population and development and, capacity building and good governance. The researcher believes that the areas selected are just “a tip of the iceberg” of the vast components to be discussed as economic and social sectorial development in Ethiopia.

Accordingly, based on the FDRE Constitution the Government of Ethiopia designed development policies and strategies for various sectors and has been under implementation. These are the policies, strategies, and programs upon which the PASDEP is built. Hence, to the researcher’s view the strategies, policies and programs including the PASDEP could be taken as an instrument whereby the right to development would be translated into practice in Ethiopia. In view of that, we shall see performance of the aforementioned selected sectors.

4.4.3 Agriculture and Development

Agriculture is the main driving force of the economy and is a source of income for the majority of the population.¹⁷⁷ The sector contributes about 50% to total GDP, generates about 90% of export earnings and supplies about 70% of the country’s raw material

¹⁷⁶ *Supra* note 4; Article 2 (3)

¹⁷⁷ Accessed from the web site of the Ministry of Agriculture and Rural Development on August 27, 2008 and some part is taken from Environment Report of Ethiopia (2001), at page 10

requirement for large and medium sized industries that are agro-based.¹⁷⁸ Agricultural is also a sector on which the country's food security depends.

Ethiopia's total land area is roughly about 1.1 million square kilometers; of which about 73.6 million hectares (66%) is estimated to be potentially suitable for agricultural production.¹⁷⁹ Out of the total land suitable for agriculture, the cultivated land is estimated to be 16.5 million hectares (22%). About 96% of the cultivated land area is under smallholder farming while the remaining is used for commercial farming (both state and privately owned). For over 80% of peasants, the average per capita land holding, including grazing land is less than 2 hectares. Per capita cultivated land holding averaged around 0.5 hectare.¹⁸⁰

According to the data obtained from the Ministry of Agriculture and Rural Development and the Ministry of Water Resources, the total irrigated land in 2005/06 stood at 603,359 hectares; of which traditional irrigation accounts for 479,049 hectares while 124,569 hectares of land is developed through modern irrigation. In accordance with the PASDEP objectives, the government continually increased budget for agriculture and food security up by 21.2% as compared to 2006/07.¹⁸¹

The influence of the agriculture sector on the Ethiopian economy has been overwhelming.¹⁸² It also influences the path of the economy both in terms of over all out put and employment. As indicated above in the annual report, being the dominant sector, agriculture contributes half of the overall GDP and generates 90% of export earnings and supplies about 70% of the country's raw material to the secondary activities.¹⁸³

The Agriculture Development Led Industrialization (ADLI) strategy that has been under implementation since 1994 was also reflected in the then Sustainable Development and

¹⁷⁸ Annual Progress Report 2006/07 of a Plan for Accelerated and Sustained Development to End Poverty, Ministry Of Finance and Economic Development .December, 2007 ,at pp 52-59

¹⁷⁹ *Ibid.*,

¹⁸⁰ *Id.*,

¹⁸¹ *Id.*,

¹⁸² *Id.*,

¹⁸³ *Ibid.*, at page 54

Poverty Reduction Program (SDPRP) which contributed a lot for the current registered growth in agricultural development sector.¹⁸⁴

As noted in the Annual Progress Report of PASDEP (2006/07), the effort to sustain the growth in the agricultural sector have been continued in terms of capacity building interventions via agricultural extension packages and research; promotion of agricultural exports; agricultural input utilization; irrigation development and natural resource conservation etc. At this juncture, the writer opts to present an overview of the respective performance as follow:-

- With regard to the volume of crop production, total production of major crops by private peasant holdings during the main season increased from nearly 134 million quintals in 2005/06 to 149 million quintals in 2006/07. This amounts to a 12% increase over the production level in 2005/06.¹⁸⁵ This improvement has been mainly attributed to the adoption and implementation of on-going agricultural policies and strategies at the grass root level which include: provision of updated marketing information to the farming communities, identification of suitable agro ecological zones, which are focused on specialization and diversification, the emphasis given to pastoral and agro pastoral farming communities addressing their critical problems mainly on moisture harvesting techniques, appropriate agricultural technologies generated, identified and delivered to specific agro ecologies, Development Agents trained and deployed to the farming communities and increased utilization of agricultural inputs particularly fertilizer and improved seeds.¹⁸⁶
- Improving farmers' capacity through training subsequently ensured food self-sufficiency and there by help transform small holder farmers from subsistence farm of agriculture to marketable agricultural commodity producers.¹⁸⁷

According, to the PASDEP Annual Progress Report of 2006/07, 4 million farmers

¹⁸⁴ Getachew Adem, *Assessment of Poverty Reduction Strategies in Sub Saharan Africa: The Case of Ethiopia*, published by OSSERA (2007) at pp. 81-82

¹⁸⁵ *Supra* note 178; at page 55

¹⁸⁶ *Id.*,

¹⁸⁷ *Ibid.*, at page 56

were trained. The focus areas of the training programs have been on crop production and protection, livestock development, livestock health and natural resource management.

- The target for most of the agricultural commodity exports has been promising except some crop during 2006/07 (see table 3.1 below), volume of export of the newly emerging agricultural commodity (cut flower) increased by about 116% over its level in 2005/06.¹⁸⁸ In 2006/07, volumes of export of pulses increased by about 44% over its level in the preceding fiscal year.¹⁸⁹

Table 3.1: Performance in Agricultural Exports

Crop	Unit	2005/07 Actual	2006/07 Plan	2006/07 Achievements	2006/07 over 2005/06 (%)
Coffee	In '000 metric ton	147.7	207	176.4	19.4
Pulses	“	110.4	170.4	158.8	43.8
Oil seeds	“	265.5	188.4	235	-11.5
Flower	“	6.3	-	13.6	115.9
Vegetable and fruits	“	34.8	49.6	40.9	17.5
Chat	“	22.3	-	22.7	1.8
Cereals	“	-	48	4	-
Meat	“	8	36	5.8	-27.5
Live Animal	“	33.3	185	43.7	31.2

Sources: National Bank of Ethiopia Customs Authority

Agriculture contributes to development as an economic activity as a livelihood, and as a provider of environmental services, making the sector a unique instrument for development.¹⁹⁰ Hence, agriculture is the leading sector for overall growth in the agriculture based countries.

¹⁸⁸ *Id.*,

¹⁸⁹ *Id.*,

¹⁹⁰ World Development Report 2008 Agriculture for Development the World Bank Washington DC (2008) at pp. 2-3

Though agriculture has a well – established record as an instrument for poverty reduction, one can enquire that “can agriculture be the leading sector of a growth strategy for the agriculture -based countries like the Sub-Saharan Africa?”

Two arguments can be treated in this regard:

- The first view is that in many of these countries, food remains imperfectly tradable because of high transaction costs and the prevalence of staple foods that are only lightly traded, such as roots and tubers and local cereals. So, many of these countries must largely feed themselves. Agricultural productivity determines the price of food, which in turn determines wage costs and competitiveness of the tradable sectors productivity of food staples is thus key to growth.¹⁹¹
- The second view is that comparative advantage in the tradable sub sectors will still lie in primary activities (agriculture and mining and agro processing for many years) because of resource endowments and the difficult investment climate for manufactures. Most economies depend on a diverse port folio of unprocessed and processed primary – based exports (including tourism) to generate foreign exchange.¹⁹²

Growth in both views the non tradable and tradable sector of agriculture also induces strong growth in other sectors of the economy through multiplier effects. For agriculture – based countries in general agriculture is a major source of growth, accounting 32% of GDP growth on average - mainly because agriculture is a large share of GDP and most of the poor are in rural areas 70%. This group of countries has 417 million rural inhabitants mainly in Sub – Saharan countries. Hence, eight – two % (percent) of the rural Sub – Saharan population lives in agriculture -based countries.¹⁹³

¹⁹¹ *Ibid.*,

¹⁹² *Id.*,

¹⁹³ *Id.*,

4.4.4 Water Resource Development

Ethiopia is known as the water tower of North East Africa.¹⁹⁴ Surface water resources in Ethiopia flow in 12 major river basins. It is estimated that an average of 122.19 billion m³ of water is annually discharged from these basins. The country's total ground water resources are estimated to be around 2.6 billion m³. Much of the discharge of Ethiopia's rivers flows into neighboring countries. The amount that remains in the country is not more than 9 percent.¹⁹⁵

Following the dissolution of the Ministry of Natural Resources and Environmental Protection (MNREP) in 1995, Water Resources Management in Ethiopia has been elevated to a ministerial level in the same year when the government established the Ministry of Water Resources (MoWR) as a federal institution for the water sector by Proclamation No. 4 /95. The powers and duties of MoWR that are outlined in Proclamations No. 4/95 and No. 471/2005 include:

- Undertake basin studies and determine the country's ground and surface water resource potential in terms of volume and quality and facilitate their utilization,
- Determine conditions and methods required for the optimum and equitable allocation and utilization of water bodies that flow across or lie between more than one Regional States among various uses,
- Undertake studies and negotiations of treaties pertaining to the utilization of boundary and transboundary water bodies and follow up the implementation of same,
- Carry out the study, design and construction works to promote the expansion of medium and large scale irrigation dams,
- Issue permits and regulate the construction and operation of water works relating to water bodies,

¹⁹⁴ *Supra* note 177

¹⁹⁵ *Ibid.*,

Having the aforementioned power and duties when we see the MoWR embarked upon the preparation of the Water Sector Development Program (WSDP). The following are the guiding principles adopted for the preparation of the WSDP: ¹⁹⁶

- Be consistent with the national water management policy and the national water strategy,
- Be in line with the national economic development strategies that are relevant to the socio- economic development of Ethiopia,
- Promote sustainable development and management of water resources,
- Take the 'Basin' as a planning unit for the development and management of water resources,
- Incorporate linkages with on-going and planned projects.

In view of the enormous water demand in the country, the WSDP has adopted the following water resource development priorities:

- Making clean water available for drinking and sanitation to the larger segments of the society,
- Making water available for livestock in critical areas such as the pastoral areas,
- Expanding irrigated agriculture to the maximum possible extent and meeting hydropower generation capacity needs arising from power demand in the economic and social sectors,
- Providing water for industrial development,
- Availing water for fisheries, tourism, transport and other uses

In relation to the principle of the RTD as stated in the supreme law of the land, the Ethiopian government has developed the WSDP spanning from 2002 to 2016. This measure of the government complies with economic objectives of the country. Having fully realized, the inadequacy of supplying clean water to the population and its

¹⁹⁶ Tesfaye Tafesse, *A Review of Ethiopia's Water Sector Policy, Strategy and Program*, In Digest of Ethiopia's National Policies ,Strategies, and Programs (published by FSS) (2008), at page 325

implications for the various dimensions of social and economic developments the government has also considered to supplying adequate clean water in the plan period.¹⁹⁷

On top of this, the Ethiopian Water Sector Development Program (WSDP) has been streamlined to fit into the objectives and targets set by PASDEP." At this point, it is imperative to see the progress towards the achievement of water resource development, water supply improvement and sanitation situation in 2006/07 as indicated in the PASDEP's Annual Progressive Report. Hence, in order to insure sustainable socio-economic development, the Ethiopian government, NGOs, the community and the private sector has undertaken maximum effort.

According to the Progress Report of PASDEP (2006/07), it is plausible to examine the types of rural water supply schemes that have been built in 2006/07 (see table 3.2 below).

Table 3.2: Type of Rural water supply schemes built in 2006/07

Rural water supply schemes	2006/07 Plan (number)	Performance 2006/07 (number)
Deep bore holes	427	236
Shallow bore holes	2982	1240
Hand dug wells	15474	2325
Haffir dams ("kure")	81	9(under construction)
Spring development	2780	2001
Roof catchments	82	21 (under construction)
Multi – village water supply system	3	4 (under construction)

Source: MoWR

As has been interviewed, water sector plays an important role in fighting poverty and attain sustainable socio-economic development in Ethiopia.¹⁹⁸ In terms of developmental aspect, the coverage of water supply and sanitation, irrigation and hydropower have still remained very minimal, and undermined the socio-economic development of the country

¹⁹⁷ *Ibid.*, at p.26

¹⁹⁸ Interview conducted with Dr. Teweldebrehan G/egizabher, Director General of EPA. Who is recognized for his work to promote Bio-safety and community rights, and is a winner of the Right Livelihood Award. On 11/02/2009

at large.¹⁹⁹ Taking this fact in to consideration and given the urgency towards accelerated and sustained economic development and reduction of poverty in the country, strong emphasis is given for the water sector services in the PASDEP, to reduce poverty and attain sustainable socio-economic development which in turn maximizes the applicability of the RTD in Ethiopia.

In this respect, mainly the Ministry of Water Resources, all Regional Water Resources Bureaus, and Irrigation Authority, Woreda Water Desks as well as Non-Governmental Organizations have been involved in the implementation of water sector development programs to achieve the stated objectives and targets as articulated in the PASDEP and water resources management policy.²⁰⁰

The Water Sector Development Program implementation has also major problems and challenges such as: - shortage of skilled manpower; shortage of skilled, experienced and well equipped national consultants and contractors in the water sector; lack of heavy duty machineries, very high cost of industrial raw materials used for construction and maintenance purpose in the water sector; prolonged process in loan and grant program implementation and delay in their financial and procurement processes; lack of under developed infrastructural facilities; insufficient investments in water supply and sanitation development programs especially at Woreda levels.²⁰¹

Given the aforementioned challenges, the implementation process revealed that mitigation measures have been undertaken at all levels of water sector management to address these challenges by way of training of technicians and medium level professionals in areas of water supply and sanitation. Measures are also being taken to strengthen the water committees and water boards for sustainable water services management. Strategies have been identified and are being implemented to increase investments for the water sector development programs which amount to overall development of the county.

¹⁹⁹ A Plan for Accelerated and Sustained Development to End Poverty (PASDEP): Annual Progress Report 2006/07; Ministry of Finance and Economic Development (MoFED) December, 2007, at pp 75-77

²⁰⁰ *Ibid.*,

²⁰¹ *Ibid.*, at page 81

As water gives life to everything including human development and human freedom, it is imperative to provide emphasis for water resources development incorporating in national development policies and follow up the implementation by harmonizing with the global target of achieving clean water and sanitation which is set forth in the MDGs.

The writer believes that development of water policies and institutional challenges need to be seen within the wider social and economic context of the country. Thus, the moves towards effective participation and a meaningful link between local communities and government agencies are imperative.

4.4.5 Capacity Building and Good Governance

Capacity building is a systematic combination of human resources, working systems and institutions that would enable a country to achieve its development objectives.²⁰² In the Ethiopian context, capacity building is an instrument for fast track economic development and democratic transformation. The need for capacity building has long been recognized since there is lack of capacity in terms of the required number and quality of institutions, working systems and human resources in the country.²⁰³ Capacity building is also one of the building blocks of the national development strategy and a necessary condition for successful implementation of the several reform initiatives²⁰⁴ and to maintain applicability of the RTD in Ethiopia.

The government of Ethiopia began to develop the national capacity building strategy in 1998. Since then, the strategy has been under refinement and updating and different institutions were put in place to coordinate and implement the country's capacity building

²⁰² Kassahun, Berhanu , “Assessment of Poverty Reduction Strategies in Sub-Saharan Africa: The Case of Ethiopia” 2007 (OSSREA) at page 18

²⁰³ *Ibid.*,

²⁰⁴ As defined in SDPRP(2002) ,at page 25

efforts.²⁰⁵ The Five-Year National Capacity Building Program (NCBP) was developed to meet the emerging needs of Ethiopia's development goals.

With the establishment of the Ministry of Capacity Building, different capacity building programs were put under the auspices of the Ministry for coordination, supervision and control of their implementation. In view of this, different reform programs were identified as major target areas and put in place.

When one examines the vision of Ethiopia it is stated as: “To see Ethiopia become a country where democratic rule, *good-governance* and social justice reigns, upon the involvement and free will of its peoples; and once extricating itself from poverty becomes a middle-income economy.” (Emphasis added) From this vision it can be understood that the issue of good-governance is included as a major element for development. Hence, it needs to closely look at what is to mean by the term good-governance from its contribution to implementing the RTD in Ethiopia as a whole.

As regards to the significance of good-governance, Larry Diamond* stated that:

For the past several decades there has been a broad assumption that countries are poor because they lack resources, infrastructure, education, and opportunity. By this logic, if we could only transfer enough resources and technology, build enough schools, roads, ports, and bridges, we could generate development. These types of improvements in economic output and capacity, physical infrastructure, and public health are crucial to development. But they are not enough, and they are not the most crucial factor. No amount of resources transferred or infrastructure built can compensate for - or survive bad governance. Corrupt, wasteful, abusive, incompetent governance is the fundamental bane of development. Where governance is endemically bad, rulers do not use public resources effectively to generate public goods, and so

²⁰⁵ *Supra* note 199

*improve the productivity and well-being of their society. More often, they appropriate these goods for themselves, their families, their parties, and associates. Unless we improve governance, we cannot foster development.*²⁰⁶

According to Larry Diamond, components of good governance are explained as:-

1. Capacity of the state to function in the service of the public good. This requires a trained, professional civil service.
2. Commitment to the public good. This must be reinforced by institutions that reward public-spirited behavior and punish betrayals of the public trust.
3. Transparency and accountability. The business and conduct of the state must be open and responsible to the scrutiny of other state actors and of the public. State power must be accountable before other countervailing, monitoring institutions in the state and civil society.
4. Rule of law. Governance can only be good and effective when it is restrained by the law and when there are professional independent authorities to enforce the law in a neutral, predictable fashion. Effective government, well functioning markets, and the protection of human rights all require that there be clear rules about what constitutes acceptable conduct in all realms of

²⁰⁶ Diamond, Larry *The Imperative of Good, Democratic Governance* (2004) The Center for International Private Enterprise (CIPE) is a non-profit affiliate of the US. Chamber of Commerce and one of the four core institutes of the National Endowment for Democracy- supported through the United States Agency for International Development (USAID) Washington, available at <http://www.cipe.org>

* Larry Diamond is a senior fellow at the Hoover Institution, co-editor of the *Journal of Democracy*, and co-director of the *International Forum for Democratic Studies* at the National Endowment for Democracy. He is also professor of political science and sociology (by courtesy) at Stanford University and coordinator of the *Democracy Program* of the Center for Democracy, Development, and the Rule of Law at Stanford's Institute for International Studies.

economic, social, and political life. All actors, public and private, must have confidence that those rules will be observed and enforced.

5. Participation and dialogue, through institutionalized channels that enable the public to provide input to the policy process, to correct mistakes in policy design and implementation, and to promote social inclusion. Institutionalized participation, as through public hearings by legislative committees and regulatory agencies, also provides channels for settling (or at least narrowing) conflicts over interests and values and for making broadly legitimate policy choices. Policies will be more likely to be stable and sustainable when they enjoy popular understanding and support.
6. Social capital, in the form of networks and associations that draw people together in relations of trust, reciprocity, and voluntary cooperation for common ends. Social capital fosters investment and commerce and breeds the civic spirit, participation, and respect for law that are crucial foundations of development and good governance.²⁰⁷

From the above components of good governance, one can draw the salient features of good governance as follow:-

- Consistent and transparent practices regarding acceptable interaction between governmental and private actors in economic, social and political life,
- Conducive atmosphere for the public to provide input into the policy process through regular channels,
- Enhancement of legitimacy of government decisions in the eyes of the public, and
- Creating a more stable and attractive climate for investment and makes economic development possible.²⁰⁸

²⁰⁷ *Ibid.*,

²⁰⁸ *Id.*,

Therefore, apart from labeling good governance as one goal of Ethiopian's vision to attain development and prosperity, Ethiopia has fully recognized improvements in capacity building and good governance. It is because these areas are critical for success in achieving the PASDEP and the MDGs as well. As far as capacity building is concerned different progressive measures have been taken by the government at all level and formulated the National Capacity Building Strategy/Program. Implementation of this Program²⁰⁹ is being executed step by step to strengthen the democratization process in the country which in turn paves a way to realizing the RTD.

4.4.6 Population and Development

The National Population Policy of Ethiopia was issued by the Transitional Government of Ethiopia in April 1993. This policy has the goal of "harmonization of the rate of population growth and the capacity of the country for the development and rational utilization of natural resources to the end that the level of welfare of the population is maximized over time."²¹⁰ The assumption behind this goal was that in addition to curbing the growth of population, creating of capacity to develop and use natural resources of the country would contribute to economic development. But, productive use of natural resource is predicated on the capacity to manage the economy at all levels, including households.

The policy also aims at pursuing general objectives that focused on closing the gap between high population growth and low economic productivity; expediting economic and social development through integrated development programs; reducing rural to urban migration; improving the carrying capacity of the environment; raising the economic and social status of women and vulnerable groups.²¹¹ Although the policy clearly stated the duties and responsibilities of agencies implementing the national

²⁰⁹ The programs are outlined as: Civil Service Reform, Justice System Reform, Improved Democratic Governance, and Decentralization.

²¹⁰ Getachew Minas. *Review of the National Population Policy of Ethiopia*, In Digest of Ethiopia's National Policies, Strategies and Programs as edited by Taye Assefa: Forum for Social Studies. (2008) at page 29

²¹¹ *Ibid.*,

population policy at the national and regional levels, these agencies were not given legal framework with which to operate.

At this juncture, one can safely argue that there is no mechanism in place to monitor and evaluate the population policy goal, objectives and targets to come out of this problem. It is thus imperative to set a population program. Hence, it would be possible to measure progress towards the achievement of policy goal if there been a population program in place for the implementation.

The Ethiopian Population has been increasing considerably since the turn of the 20th century. The size of the population increased from 11.8 million in 1900 to 23.6 million in 1960, doubling in 60 years. It took only 28 years to double to 47.3 million in 1988. The population was growing rapidly at the rate of 2.9 percent in the late 1980's. Recently, it is projected to reach 77.1 million.²¹²

The major cause for the rapid population growth in Ethiopia is suggested as high total fertility rate. Total fertility rate was high at 7.7 children per woman of reproductive age around the time the National Population Policy was issued. Total fertility was about three times the replacement rate, which made it one of the highest in Sub-Saharan Africa. Consequently, the growth of population is still high 15 years after the issuance of the population policy of Ethiopia.²¹³

The population dynamics of fertility and mortality, as well as the distribution and structure of population revealed the challenges of demographic factors to the attainment the objective of sustainable development and poverty eradication in the country. Some of the factors that contributed to high fertility rate were early marriage, low age at first marriage, low level of education particularly among women, the youthful population and low use of contraceptives.²¹⁴

²¹² *Ibid.*, at page 23

²¹³ *Ibid.*,

²¹⁴ *Id.*,

In this view, it would be vital to look briefly into the interaction between population and development. This interaction could be observed using critical factors of development, in particular the environment, agriculture, water resource, health, education, housing, employment, situation of women, and other social relation.²¹⁵

As has been discussed earlier, the DRTD clearly stipulates that human person is the central subject of development and thus beneficiary of RTD.²¹⁶ From this point of view, all development efforts have to be human centric. Therefore, population issues should be integrated in all programs of economic development for the full realization of the RTD in Ethiopia.

According to summary out come assessed, citizens' reaction and agenda for PASDEP for population and development sector the key out come of SDPRP in this regard was not much encouraging owing to gaps in the implementation of the population policy. Therefore, the people need to address implementation and institutional gaps with focus on productive health strategy and family planning.²¹⁷ In this regard, the government should address the gaps by setting mechanisms.

4.5 National Development Policy Framework and MDGs

Ethiopia's commitment to poverty reduction and its ultimate eradication in all its dimensions has animated government strategies well before the MDG needs assessment process was initiated.²¹⁸ This is most evident in the formulation of its PRSP of 2002 entitled the "Sustainable Development and Poverty Reduction Program -SDPRP", currently being updated by a five year plan entitled "Ethiopia: A Plan for Accelerated and Sustained Development to End Poverty -PASDEP".

²¹⁵ *Id.*, at page 25

²¹⁶ *Id.*, at page 29

²¹⁷ *Supra* note 184

²¹⁸ Ethiopia: The Millennium Development Goals (MDGs) Needs Assessment Synthesis Report Development Planning and Research Department -Ministry of Finance and Economic Development (MoFED) December 2005 Addis Ababa, at page 54

The Millennium Declaration mentions the right to development in paragraph 11 and 24. More explicit links have been drawn between the MDGs and the RTD in recent UN documents.²¹⁹ Other authors note that “the MDGs derive their power from the legitimacy and value-base of human rights, particularly through the operationalization of the right to development.”²²⁰ “From that point of view, MDGs are fundamentally located within a human rights framework, with a clear connection to the dialogue on the right to development.

Rights are the normative basis for the MDGs. By linking the MDGs in a very direct way to the right to development, which was reaffirmed at the World Conference on Human Rights in 1993 by the community of nations in the UN as a whole, there is no room for understanding the MDGs outside of rights-based perspective.”²²¹

The MDGs has been adopted by the Government of Ethiopia as a central objective of national development strategy. The programs already implemented in the areas of poverty reduction, education, health care, gender equality, the environment, and food security. Besides, there are a number of programs and policy reforms currently in place, which serves as a basis for an acceleration of progress towards the MDGs.²²²

According to the Millennium Development Goals (MDGs) Needs Assessment Synthesis Report of the 2005, it has already been noted that Ethiopia has chosen to take a holistic approach to developing a MDG strategy, explicitly incorporating growth considerations. This reflects the awareness that without sustainable and accelerated growth Ethiopia’s goal of reaching the MDGs and more generally fostering human development cannot be achieved. This is particularly relevant for reaching Goal 1 of halving the poverty rate by

²¹⁹ UN documents that refer to RTD, development, MDGs, Commission on Human Rights, *Economic, Social and Cultural Rights, Study on Policies for Development in a Globalizing World: What can the Human Rights Approach Contribute?*, UN Doc. E/CN.4/Sub.2/2004/18, 7 June 2004; OHCHR, *Economic, Social and Cultural Rights, The Right to Development: Study on Existing Bilateral and Multilateral Programs and Policies for Development Partnership*, UN Doc.E/CN.4/Sub.2/2004/15, 3 August 2004 <http://www.un.org> visited on 07/17/2008

²²⁰ Shetty, Salil, “Can a Rights-based Approach Help in Achieving the Millennium Development Goals”, *IDS Bulletin*, Vol.36, No.1, 2005, at p.74.

²²¹ *Ibid.*, at page 73

²²² Ethiopia: Progress Towards Achieving the Millennium Development Goals (MDGs): Success, Challenge and Prospects: Planning and Research Department, Ministry of Finance and Economic Development (MoFED) September 2008 Addis Ababa, at page 1

2015, but substantially impacts all other MDGs as growth provides the individual, household and public resources that bring about sustainable progress in terms of poverty reduction and more generally on development.

Despite the policy emphasis already given to improvements in human development, the challenge of achieving the MDGs will require significant scaling up in service delivery, particularly at primary level, while aiming to develop balanced service delivery systems.²²³

4.5.3 Harmonization of MDGs with the Nationals Development Policy Framework.

In response to the conditions confronting Ethiopia since the mid-1990s, the Government has made addressing human development needs and reducing poverty the core of its development strategy. Ethiopia's strategy is predicated on achieving poverty reduction through accelerated growth, while at the same time building the human and institutional capacity the country will need for the longer term and – above all – improving the basic conditions under which the majority of Ethiopians live.²²⁴

Efforts made to the harmonization of MDGs with national policies reveal that the poverty reduction effort of the Government has taken a longer-term view, with the MDGs placed in perspective, and the PASDEP conceived as a medium-term plan to attain at least the MDGs. To that end, the ultimate goal of the PASDEP is to ensure human development among the poor generally, and among women in particular; and in broad economic terms, move Ethiopia along the path to becoming a middle-income country in about 20 years time.²²⁵ Hence, in terms of goals the MDGs are compatible with national development policies.

²²³ *Supra* note 218; at page 55

²²⁴ *Supra* note 222; at page 2

²²⁵ *Ibid.*,

The PASDEP, and Sustainable Development and Poverty Reduction Program (SDPRP), resonated the goals and targets enshrined in the MDGs. Accordingly, the government has embarked upon an aggressive program to accelerate progress as quickly as possible, including a big push on education to create human capacity, expanding infrastructure to enhance the competitive advantage of the economy, building institutions, decentralizing government, and mobilizing the power of grass root communities including civil society. The writer believes that the move towards achieving development in the country should be appreciated because in one way or the other the steps being taken by the government amounts to the full realization of the RTD as stipulated in the FDRE Constitution.

Achieving and sustaining broad-based growth through transforming the agricultural sector and encouraging private institutions founded on small and medium enterprise development and job creation is also considered central to the government's poverty eradication effort. Similarly, the efforts include diversification of the economy, and development of a vibrant private sector, as well as a concentration on the types of growth - small-scale agriculture that most benefit the poor. Therefore, one can safely argue that this compressive effort will help to achieving the MDGs in the Ethiopian context.

On top of this, Ethiopia was among the first countries in Africa to embrace the MDGs and put them in to the national context following the issuance of Ethiopia's first generation Poverty Reduction Strategy Program (PRSP)-SDPRP. In the context of Ethiopia, currently PASDEP serves as vehicles towards reaching the MDGs.²²⁶ Having made an early commitment to the MDGs, the Government launched a major exercise in 2004, in collaboration with the United Nations, the World Bank and other donors, to cost the MDGs and determine what was needed to achieve them, culminating in the "Millennium Development Goals Needs Assessment Study" issued in 2005. This is a justification for the government's effort and commitment to comply the MDGs in line with the national policies.

²²⁶ *Ibid.*, at page 3

The Need Assessment therefore quantified the financing gap confronting Ethiopia and laid the basis for a major effort to mobilize the massive additional external financing needed if Ethiopia is to achieve the MDGs.

In this regard, some citizens comment that with the current global economic crises it will be difficult to say Ethiopia will be achieving MDG, in 2015. Probably, it may take some few years the writer will also share the same view.²²⁷

The PASDEP was designed to be implemented on the basis of these indicated aid flows. This was accompanied by a strengthened structure for international cooperation to achieve the MDGs, described under the discussion of Goal 8. Nonetheless, the amounts forthcoming have been less than those that were anticipated, and this, together with the difficult global economic crisis; this is one of the most significant challenges facing Ethiopia in sustaining its progress towards the MDGs.

4.5.4 Achieving the MDGs in Ethiopia and the Way Forward

According to Ethiopia's progress report towards achieving the Millennium Development Goals, despite the shortfall in financing, tremendous progress has been made: for example primary school enrollment has risen to over 91%; there has been a sustained decline in child malnutrition; infant mortality has fallen from 123 in the early 1990s to 77 by the end of 2005; while the proportion of the population with access to clean water has more than doubled (from 19% in the 1990s to 52.4% by the end of 2006/07). Nonetheless inevitably challenges remain.²²⁸

It is also reported that the base that has been laid over the past decade has yielded tremendous results; but equally important that it has now set the stage for a more rapid take-off in both human and economic development.²²⁹

²²⁷ *Supra* note 198

²²⁸ *Supra* note 222; at page 2

²²⁹ *Ibid.*,

The following some outcomes observed in the past decade:-

- the expansion of infrastructure – earlier investment in roads, power supply and telecommunication, which have laid the basis not just for new economic activity, but also for better access to social services;
- the massive investment in all levels of education and training, which have now created a generation of Ethiopians equipped for both higher productivity and to provide effective public services;
- opening up of the economy, and financial sector and regulatory reforms, which have laid the basis for expansion of business activity and increased employment;
- the institutional capacity-building and reform programs that have laid the basis for service delivery efficiency gains;
- a wide-ranging set of agricultural and food security reforms that have created a basis for better incomes for small farmers, household food security, and better nutrition; and, finally;
- economic management reforms that have increased the capacity for sustainable financing of pro-poor investments.

As to the writer's opinion, the aforementioned outputs implicitly justify the opportunity for the applicability of the RTD in Ethiopia.

Although, Ethiopia started from such low initial conditions, for many of the indicators; its progress towards achieving the MDGs has been extremely impressive. Hence, Ethiopia still has far to go – in absolute terms often as far as other countries did at the beginning of the MDG period in 1990.²³⁰

Despite the favorable forecast, there are substantial risks and challenges for the applicability of the RTD in Ethiopia. This is because Ethiopia remains extremely vulnerable to both internal and external shocks – drought, climate change, world economic crisis and geopolitical conditions, and the rising costs of essential inputs such as fuel, fertilizer and imported grains.

²³⁰ *Id.*,

As indicated above, while the government is taking effort in its strategy to mitigate various risks, ultimately many of them are factors beyond Ethiopia's control, and achieving the MDGs will continue to depend on favorable external circumstances. Therefore, it is imperative to enhance the global partnership to achieve the internationally-agreed agenda of achieving the MDGs.

It has to be also noted that where unemployment is rampant and the number of people with unmet daily needs is quite large, the focus of the strategy must be first on the provision of basic needs, and through that, boosting the capacity of a large segment of society to become productive members.²³¹ In short, the insights from the 'economics of depression' should not be completely neglected since they have some relevance, at least in economies where huge human resources are unemployed and effective demand is constrained because potential output is close to its minimum.²³²

The other indicator worth discussing is the growth of GDP which the government report used as a measure of performance during the SDPRP and progress reports of the PASDEP.²³³ According, to the SDPRP's government report, the growth rates of GDP between 2002/03, 2003/20004, 2004/05 were -3.9, 11.6 and 8.9 per cent, respectively. As mentioned in the report, the SDPRP is mainly anchored in the growth of GDP particularly that of agriculture and the target GDP growth for the program period was an average of 7 per cent. Hence, the actual average growth rate for the three program years was about 5.5 per cent. Clearly, in terms of average the actual figure is not that much far off the target. But there were two issues that are relevant in this regard:²³⁴

- First, is it possible to base the success of a program on an aggregate that fluctuates by such a huge margin?
- Second, since the aggregate is by and large determined by external shocks, one can imagine or inquire how can the progress made, if and when, be attributed to the effects of policy in the absence of a counter factual analysis? Therefore, while the GDP growth rates in the last two years were good they cannot be attributed to

²³¹ Interview conducted on September 2, 2008 with Dr. Kifle Negash, Office Chief ,Business, Environment, Agriculture and Trade-USAID/Ethiopia

²³² *Ibid.*,

²³³ *Supra* note 152; at page 3

²³⁴ *Ibid.*,

policy and considered adequate, because the result was mainly due to good weather and growth of GDP was a necessary but not sufficient factor for poverty condition, respectively.²³⁵

Arjun Sengupta, the independent expert on the RTD for the Human Right Commission proposed that “the RTD doesn’t deny the positive impact of the growth of GNP and GDP; but, it calls for additional policy to accelerate the expansion of these freedoms together with equity and justice.”²³⁶ He also added that the basic difference between achieving the RTD and emphasize growth of GDP is that in the former it is expected to bring about a more equitable outcome of economic activities that makes possible for the realization of all the components of the right itself.²³⁷ Hence, it is also the writer’s view to make the economic growth more equitable and sustainable.

With regard to the advantages of the PASDEP, compared to the former national development polices, it has benefited from the MDGs Needs Assessment Study prepared through the support of the United Nations Country Team (UNCT), the World Bank and The Millennium Project. The government noted that the MDGs are well integrated into its development plans, programs, and strategies, and accordingly the PASDEP is considered as a vehicle towards reaching the MDGs at a minimum.²³⁸

As indicated in many official reports, the country registered an impressive annual growth rate of about 11.02 % per annum for the last four years ending in 2007/08. This marks a significant progress, not only compared to the 7% annual growth target required to meet MDGs but also to realize the Country’s vision of becoming a middle income country in about two decades time.²³⁹

²³⁵ *Ibid.*,

²³⁶ *Supra* note 52; at page 14

²³⁷ *Supra* note 32; at page 20

²³⁸ *Supra* note 222; at page 35

²³⁹ *Ibid.*,

On the other hand, a number of challenges and issues in the implementation of the PASDEP and achieving MDGs have been discussed during the Annual Progress Reports (2005/06 & 2006/07). Thus, some of the major challenges are unpredictability of aid, low level of productivity of agriculture, vulnerability to both external and domestic shocks, inflationary pressure largely driven by food inflation, and weak implementation capacity particularly at Woreda level.²⁴⁰

In spite of tremendous efforts and impressive achievements in social sectors, the recent Human Development Report (2007/08) reveals that around 26 million people from a total of over 75 million, live below the poverty line by the end of 2006/07 and Ethiopia stands 169 out of 177.

Therefore, to bring about sustainable socio-economic development in Ethiopia the writer believes that all concerned actor should concurrently act for the effective realization of the existing national development polices by way of synchronizing with the MDGs. This, in turn, maintains the applicability of the RTD in Ethiopia.

CHAPTER FOUR

5. Implementation Status of the Right to Development from Environmental Perspectives in Ethiopia.

As indicated in the preceding chapters, principle of the RTD is enshrined in the FDRE Constitution. In effect, the Constitution guarantees the fundamental rights ‘to sustainable development’ and ‘the right to improved living standards’. Hence, implementation of these rights in terms of environment inevitably results in full realization of the RTD. In

²⁴⁰ *Supra* note 222

this chapter, therefore, the overall implementation status of the RTD from environmental perspective in the Ethiopian context is at issue to be discussed.

As far as the interrelationship of development and environment is concerned, different international conventions or declarations incorporated the principle of the RTD. Taking this fact as a ground, the writer will attempt to investigate environment policies and strategies and their implementation towards achieving sustainable development from the environmental point of view. With this regard, integration of environment with development shall be examined.

In 1971 the General Assembly expressed its conviction that “development plans should be compatible with a sound ecology and that adequate environmental conditions that can be ensured by the promotion of development both at the national and international levels”,²⁴¹ Complying with this view, one of the principles in the Stockholm Declaration stipulate that:

*In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.*²⁴²

On top of this, the 1982 World Charter for Nature in its principles 7 and 8 provided “that the conservation of nature was to be taken into account in the planning and social development activities and that due account was to be taken for the long-term capacity of natural systems in formulating plans for economic development.”

The integration of environment and development however; has created a debate over the RTD. Implicitly, the Rio Declaration accepts the RTD and provides that: “The right to development must be fulfilled so as to equitably meet development and environmental

²⁴¹UN General Assembly Resolution 2849 (XXVI).1971

²⁴² Principle 13 of the Stockholm Declaration

needs of present and future generations.”²⁴³ A close look at this specific principle will affirm that the RTD clearly reflects national environmental concern for the fulfillment of social and economic development.

The concept of the RTD is also established in the 1992 Framework Convention on Climate Change which provides that:

*The parties have a right to, and should, promote “sustainable development” policies and measures to protect the climate system against human induced change should be appropriate for the specific conditions of each party and should be integrated with national development programs taking into account that economic development is essential for adopting measures to address climate change.*²⁴⁴

As indicated in previous sections, definition and component of the principle of the RTD is proclaimed under the DRTD.²⁴⁵ The RTD was also reaffirmed as an inalienable human right in 1993 by VDPA.²⁴⁶ Ethiopia also incorporated the RTD in its Constitution of 1995.²⁴⁷ In the same Constitution specific environmental objectives are stipulated in an implicit manner²⁴⁸ where environmental policies and other laws shall be guided by these principles and objectives.²⁴⁹ Hence, the main point to discuss here is that, how far the RTD has been implemented in the environmental viewpoint in Ethiopia?

As has been discussed, States have the right and the duty to formulate appropriate national development policies. This idea has also been confirmed in different environmental instruments to which Ethiopia is a party.

²⁴³ *Supra* note 2,

²⁴⁴ Article 3(4) of the 1992 UN Framework Convention on Climate Change

²⁴⁵ *Supra* note 4

²⁴⁶ *Supra* note 89

²⁴⁷ *Supra* note 13

²⁴⁸ *Ibid.*, Article 92

²⁴⁹ *Id.*, Article 85(1)

In the next section, the researcher has investigated the environmental policies and strategies of Ethiopia and evaluate as to how the concept of the RTD has been addressed in light of the practical development process of the country.

4.1 Environmental Policies and Strategies

The Environmental Policy of Ethiopia (EPE) issued in 1997 and aimed at improving the quality of life of the people through sustainable development of natural as well as cultural resources. Since the government and citizens shall have the duty to protect the environment, the specific environmental policy has a paramount importance for the implementation of development projects and/or programs in a manner suitable to the environment.²⁵⁰

The EPE also contains implementation principles of the policy where institutional framework, responsibilities and mandates, legislative framework, and importantly, monitoring, evaluation and policy review aspects are mentioned.

The EPE also entertains various sectoral and cross-sectoral policies addressing the need to the policy -oriented approach to other inter -related sector of the environment and the need to tackle issues like population and the environment, community participation, access rights to natural resources including water resource, and etc respectively.²⁵¹ Despite the fact that environmental policy of a state is influenced by a number of other related policies²⁵², harmonization of the two sectoral interests justifies government's commitment for the integration of environmental planning with developmental programs.

The specific policy objectives of EPE include: ensuring sustainable use of natural resources developing currently under utilized resources, improving the social, economic and cultural environment of human settlements, adopting preventive measures of land, air, and water pollution, conserving, developing, and managing the rich and diverse

²⁵⁰ Melaku Bekele. *Ethiopia's Environmental Policies, Strategies and Programs*, In the Digest of Ethiopia's National Policies, Strategies and Programs (ed.,) FFS (2008), at page 351

²⁵¹ EPE (1997) para., 3.1&4.1 at page 6 and 19 respectively.

²⁵² Vibhute, Khushal, *Environmental Policy and Law of Ethiopia: A Policy Perspective* (2008) Journal of Ethiopian Law ;Vol.,22No.1, at page 80

cultural heritage, ensuring people's participation in environmental management, and raising public awareness about the environment link that exists between development and environment.²⁵³

The above objectives are said to be based on the following key guiding principles such as: the right to live in a healthy environment, the right to development on sustainable manner, the importance of peace and personal security for sustainable environment, environmental protection, an integrated implementation of cross sectoral and sectoral policies and strategies increased awareness on environmental and resource issues, etc. In relative terms, these principles will help in ensuring consistency in the environmental policies.

The EPE also emphasizes the need to establish a legal document in reference to people's participation in the development of policies, laws and plans, to assure the people's developmental rights to a healthy environment consistent with the Constitution.

There is a suggestion that though solid ten years elapsed for the issuance EPE, it has little to show on the ground. The difficulties of implementation probably the wide range of environmental issues added in the document, and lack of trained man power and adequate finance.²⁵⁴

In general, EPE contains a part in which monitoring, evaluation and policy review principles are pointed out. The responsibility of monitoring and reviewing projects and programs lies in the federal and regional bodies, although Environmental Protection Authority (EPA) assumes the overall monitoring and evaluation responsibility. In addition, any recommendation or modification is needed to be in line with the institutional arrangement indicated in Conservation Strategy of Ethiopia (CSE) and also be responsive to popular opinion.

²⁵³ *Supra* note 251; para.,2.2 at page 3

²⁵⁴ *Ibid.*, para.,5.3 at page 28

The researcher has investigated that, although the EPE consists of sectoral and cross-sectoral policies, no evaluation has been carried out regarding their specific implementation.

At this juncture, the researcher reminds readers that this chapter also be seen in light of issues discussed in the previous two chapters. Accordingly, it calls for examining the environmental policy discussed above with the national development policy implementation so that one can infer the applicability of the RTD from the environmental point of view in Ethiopia.

The Federal government of Ethiopia, in its effort to enhance the economic development of the country in general and rural livelihood improvement in particular, adopted an approach where natural resource (land, soil, water and forest) management is looked at in an integrated manner.²⁵⁵

The PASDEP provides that environmental resources are the foundation of social and economic development as they are the sources of goods and services needed for poverty reduction and economic growth.²⁵⁶

Given all the challenges faced during its predecessor (SDPRP) in terms of environmental components, the PASDEP set environment goals and strategies for its implementation timeframe to achieve environmentally sound development and put a vision as: “to create a self-reliant Ethiopian population with a high quality of life in a productive environment, which assures equity between genders and among generations.”²⁵⁷

This vision of PASDEP can be achieved by ensuring social, economic and environmental sustainability in development being guided by EPE. The central theme of the research in this chapter also revolves around these thematic issues in light of realizing the RTD in Ethiopia.

²⁵⁵ *Supra* note 250; at page 59

²⁵⁶ *Supra* note 14; at Page 187

²⁵⁷ *Ibid.*, at page 189

According to the APR of PASDEP (2006/07), some of the major achievements that have been undertaken are:²⁵⁸

- The development of *Woreda* Environmental Management Plan preparation, implementation, monitoring and evaluation manual is completed;
- National Plan of Action to Combat Desertification has been updated in light of the new national and international policy dynamics;
- Involving Youth in Combating Desertification Initiative is under implementation in two regional states (Amahara and Oromia regional state);
- Preparation of Six guidelines as planned in the PASDEP: textile, plastic, pulp and paper, construction, floriculture and public participation have been under various stages of preparation;
- Environmental education and awareness toolkit disseminated targeting various bodies involved in environmental management;
- Environmental awareness promotion activities.

With the objective of improving Waste Management and Pollution Reduction of PASDEP, various activities have been accomplished aimed at prevention of pollution originating from manufacturing and service enterprises. These include the following:²⁵⁹

- Guidelines on the management and use of used engine oil and electronic waste has been prepared.
- Guidelines for Environmental Management System have been drafted to support the implementation of environmental management initiatives of the six industry sectors (food, beverage, sugar, cement, textile, tannery and leather) targeted in the PASDEP. The guidelines will serve as training module to provide capacity building training to regional Government, industries and other stakeholders.
- Completion of municipal waste management strategic plan preparation, implementation, monitoring and evaluation practice and training guidelines;
- Completion of integrated municipal waste management practice and training technical guidelines;

²⁵⁸ *Supra* note 178; at page 117

²⁵⁹ *Ibid.*, at page 119

According to progress towards achieving the MDGs, the MDGs report of Ethiopia describes that environmental sustainability has become critical issue for Ethiopia; especially since the majority of the poor depend directly on the natural environment for their livelihoods. For instance; as pointed out under MDG-Goal 7, access to safe water is one of the key elements. Hence, progress on water supply has been particularly encouraging. It is also reported that, the shares of the population with access to clean water has increased dramatically since 1994/95, and given current trends, Ethiopia seems to be on track to reach the specific MDG target of halving the population without access to clean water by 2015.²⁶⁰

As indicated above, environmental policy of a State is interlinked with various policies of the State. Hence, in the Ethiopian context PASDEP, CSE and EPE play a pivotal role in setting interrelated goals and strategy. So, from the aforementioned discussion the experience reveals the significance of environmental policy to realizing environmental objectives stated under the FDER Constitution.

4.2 The Conservation Strategy of Ethiopia and Policy implementation

The Conservation Strategy of Ethiopia (CSE) consists of 10 cross-sectoral and 10 sectoral issues pointing out the strategies for the sustainable development of the country. The preparation of the document has taken more than seven years.²⁶¹ It was prepared through Federal and regional level joint consultations.²⁶² The preparation of this document has been a major factor leading to the establishment of the EPA and the formulation of the EPE. The regions have also prepared region specific conservation strategies expected to promote regional conservation efforts.

The CSE document asserts that since the start of the strategy results in areas of awareness and improved attitudes towards environmental issues at government level, institutionalization of all environmental body (EPA) and regional environmental bodies, and creation of strategy were achieved. The document also claims to have taken into consideration the low standard of living of the people and thus their reluctance to invest in conservation that would not bring immediate return.²⁶³

²⁶⁰ *Supra* note 222; at page 27

²⁶¹ *Supra* note 250

²⁶² *Ibid.*,

²⁶³ *Id.*, at page 347

The CSE, unlike many other comparable documents, attempts to build the policy objectives and their implementation mechanism on a conceptual setting in which natural resources are looked at as creations of human beings, and thus the critical need to develop the latter in order to build a condition where resources are developed and conserved for sustainable use.²⁶⁴

Some also argues that the intimate linkage between the resource and the user is not always smooth.²⁶⁵ Therefore, creating a participatory management system will enable to ease the tension and establish sustainable utilization.

The overall policy goal of CSE provides that:

*to improve and enhance the health and quality of life of all Ethiopians and to promote sustainable social and economic development through the sound management and use of -natural, human-made and cultural resources and the environment as a whole so as to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.*²⁶⁶

The cross- sectoral policy objectives of CSE provide that “to maintain and improve the human carrying capacity of the environment by managing population growth and distribution, in such a way as to match people and resources in a manner which is environmentally sound, economically sustainable...”²⁶⁷

The sectoral policy objectives of CSE provide that “To promote improved soil conservation practices that enhance and maintain land productivity for sustainable development in general.”²⁶⁸ It also includes the areas of soil husbandry and sustainable

²⁶⁴ *Id.*,

²⁶⁵ *Id.*,

²⁶⁶ CSE (Vol. II para., 76)

²⁶⁷ *Ibid.*, at para., 86

²⁶⁸ *Id.*, at para., 154

agriculture, forest, woodland and tree resources, genetic species, biodiversity, water, energy, and mineral resources, urban environment and environmental health, control of hazardous materials and pollution from industrial waste, atmospheric pollution and climate change, cultural and natural heritage.²⁶⁹

According to the CSE each cross-sectoral and sectoral policy is followed with general objectives, situation synopsis, and a number of guiding principles and strategies.

Generally, the document appears to be a well-structured and comprehensive document that addresses most issues related to natural resources management and environmental protection issues. To ease the burden of implementation, institutional framework, management structure and operational arrangement as well as action programs have been defined at regional and national levels for the sectoral and cross-sectoral issues.²⁷⁰

The federal institutional and operational works are there to provide an overall national framework whereas the regional ones focus on the regions specific policy issues and implementation matters. The action programs are reflected in the strategies developed for each of the sectoral and cross-sectoral policy issues. The strategies include actions taken on the natural resources and the environment, aspects that have impacts on them and institutional and organizational arrangements.²⁷¹

In general, when we see the over all document of the CSE the policy objectives, the programs and strategies drawn are relevant to address the country's need for natural resource and environmental management on a sustainable basis. The principle follows that of "wise use" rather than preservation.²⁷² The notion followed to involve communities in the management of resources is also meaningful and attractive, and helps in facilitating implementation. Nevertheless, the necessary and appropriate legislations and organizational structures were absent to realize the objectives indicated in the document.

²⁶⁹ *Id.*,

²⁷⁰ *Supra* note 250

²⁷¹ *Ibid.*, at page 347

²⁷² *Id.*,at page 346

With regard to the limitations of CSE, there is a suggestion that the policy focuses on natural resource and environmental management as well as improving production. But, the linkage with marketing, which can make a difference and can create incentive to farmers, has not been adequately considered except in the case of land management.²⁷³

As has been stated, the CSE addresses almost a major natural resource and environmental protection issues in the country. However it is imperative to see the implementation of the CSE as well. In this regard, when we see the overall activities undertaken to implement the conservation strategy since its application it seems insignificant. However, the following major activities have been implemented:

- The EPA has been established at the federal level;
- Three regional states have established their own environmental organs;
- Proclamations for pollution control, environmental impact assessment, and for the establishment of environmental protection organs have been enacted;
- The National Plan of Action to Combat Desertification has been prepared;
- The Environmentally Sustainable Industrial Development Strategy has been prepared; and

One of the environmental objectives of the Constitution of the FDRE is ensuring a clean and healthy environment that maintains the principle of the RTD. It also provides that every citizen has the right to live in a healthy environment and the right to sustainable development.

As regards, it is well noted that the EPE and CSE are crucial documents for the realization of development in Ethiopia in terms economic, social and environmental aspect. Hence, the researcher believes that for effective implementation of conservation strategy and environmental policy there should be well organized-organizational structure and human resource, laws and regulations, environmental guidelines and standards.

4.2.1 Environmental Laws, Guidelines and Standards in Ethiopia

²⁷³ *Id.*, at page 347

4.2.1.1 Environmental Laws

According to, the FDRE Constitution citizens have the right to development and the right to live in a clean and health environment. These fundamental rights are also implicitly reflected in EPE and CSE. Law has an indispensable role in protection and improvement of the environment.

After the establishment of EPA in 1995 by proclamation No- 9/1995 the EPO Proclamation in 2002 has re-established EPA by repealing Proclamation No.9/1995. In the same year, EIA Proclamation and EPC Proclamation were enacted. In 2007, Solid Waste Management (SWM) Proclamation came into effect. These existing Proclamations constitute environmental law regime in the Ethiopian context. Hence, we will see each Proclamation as follow:

❖ The EPO Proclamation No. 295/2002:

The main objective of this Proclamation is assigning responsibilities to separate organizations for environmental development on the one hand, and environmental protection, regulation and monitoring on the other, avoiding possible conflicts of interests and duplication of efforts. The proclamation is also instrumental in the sustainable use of environmental resources and fosters a coordinated and yet distinct responsibility between and among environmental agencies at federal and regional levels.

This proclamation set in motion the EPA, an autonomous public organ of the Federal Government headed by, and accountable to, the Prime Minister. In addition, it provides for the establishment of Environmental Protection Council as well as Sectoral Agencies and Environmental Units.

Pursuant to this proclamation, each relevant government organization shall establish under it. Environmental unit with the responsibility to ensure its activities are being carried out in a manner which is compatible with the environmental law and obligations emanating therefrom. In addition, the proclamation entrusts environmental organs to be

established by the regions with extensive mandates that enables the coordination of environmental activities, with a view to avoiding conflict of interests and duplications.

❖ **The EIA Proclamation No. 299/2002:**

This proclamation has the following significance in realizing the adverse impacts of a development activity on the environment that can be predicated and assessed in advance. Accordingly:-

- it serves to bring about thoughtful development by predicting and mitigating the adverse environmental impacts that a proposed development activity is likely to cause as a result of its design, location, construction, operation, modification and cessation.
- A careful assessment and consideration of the environmental impacts of public documents prior to their approval, provides an effective means of harmonizing and integrating environmental, economic, social and cultural considerations and aspirations into the decision-making process in a manner that promotes sustainable development.
- Implementation of the environmental rights and objectives enshrined in the Constitution requires the prediction and management of likely adverse environmental impacts, ways in which the benefits might be maximized, and the balancing of socio-economic benefits with environmental costs.
- Environmental impact assessment serves to bring about administrative transparency and accountability, as well as involve the public and, in particular, communities in development planning decisions which may affect them and their environment.

As indicated above, the overall objective of the environmental policy is to promote the sustainable social and economic development of the country through, *inter alia*, sustainable management and utilization of the natural resources of the country.²⁷⁴

Environmental Impact Assessment (EIA) is a method of identifying and analyzing the potential impacts of a project on the environment, with the view of ensuring environmentally sustainable development.²⁷⁵ Thus, EIA is one of the most important processes to ensure sustainable development for the country. In this regard, sustainable development can be achieved only through taking into consideration social, economic and environmental situations.²⁷⁶

Apart from the constitutional foundation, the legal status of EIA emanates from the environmental policy of the country and thus the environmental policy determines the scope and key elements of the EIA. After the adoption of the EPE in 1997, the Ethiopian government introduced the Environmental Impact Assessment Proclamation in 2002. The proclamation requires an EIA process for any planned development project or public policy which is likely to have a negative impact on the environment.

Basically, the proclamation provides for public participation in the environmental impact assessment process. It requires environmental bodies to ensure that the comments made by the public are incorporated into the EIA study report as well as into its evaluation.²⁷⁷

In order to ensure applicability of constitutive elements of the principle of the RTD through sustainable socio-economic and environmental development it is imperative to look into the practical application of EIA. Accordingly, it needs to see what the professionals in the field suggested. In this respect, there is a gross lack of awareness and widespread misconceptions about EIA in Ethiopia. This is not only related to the general

²⁷⁴ *Supra* note 175

²⁷⁵ Million Belay and Befekadu Refera (ed.), *Environmental Impact Assessment Implementation and Challenges: MELCA Mahiber in Collaboration with Sheka Forest Alliance*; Published by: MELCA Mahiber: Addis Ababa, Ethiopia (2008). <http://www.melca-ethiopia.org/> (Accessed on 10/03/2009)

²⁷⁶ *Ibid.*,

²⁷⁷ Environmental Impact Assessment Proclamation No. 299/2002 Federal *Negarit Gazeta*-No 9th Year No. 11 3rd December, 2002, Article 15

public but also to some of the main actors in the EIA process. Some even consider it as obstacle to development activities. EIA needs an extensive human and resource capacity, which is lacking in the major implementing organs of the EIA system.

There are no regulations or other specific rules to support the implementation of the EIA Proclamation and it was concluded that there is no effective EIA system in Ethiopia or low level implementation of EIA.

From institutional coordination point of view in implementing EIA, there is limited coordination between federal and regional environmental institutions. At the Regional level, EPA offices are found in different sectors and offices. This creates communication gaps and limitations in forming linkages. In addition, the National Council for Environment is not properly undertaking its responsibility.

As regards the EIA implementation constraint, it has been proved that there are misconceptions that EIA is anti-development and expensive, whereas in comparison to the cost of the projects, EIA is not expensive. Investors also assume that EIA will bring compensation issues.

❖ **The EPC Proclamation No. 300/2002:**

This Proclamation was enacted to help realize the effective implementation of the environmental objectives and goals incorporated in the Environmental Policy. In addition, the Proclamation includes the following purpose:

- Some of the social and economic development endeavors may be capable of causing environmental impacts that might be detrimental to the development process itself;
- The need to protect the environment in general and particularly safeguard human health and well-being, preserve the biota and maintain an untainted aesthetics is the duty and responsibility of all; and
- It is essential to prevent or minimize the undesirable pollution resulting from economic development through appropriate measures.

The Proclamation also consist a number of articles on different issues such as pollution control, management of hazardous wastes, chemicals and radioactive substances, environmental standards, the rights and duties of environmental inspectors and penalties etc. Hence, EPC Proclamation, through appropriate measures and strategies endeavors to mitigate the environmental pollution.²⁷⁸

❖ **The SWM Proclamation No.513/2007**

This proclamation is also essential in the environmental law regime of the country because it promotes community participation in preventing the adverse effects and to enhance the benefits which are resulting from solid wastes.

As far as community participation is concerned, the Proclamation puts a designed action plan where solid waste management can be implemented in the lowest administrative units of urban administration. This in turn maximizes poverty reduction programs of the country by virtue of protecting the environment.

On top of this, the enactment of the aforementioned proclamations will help much in the effort to bring about sustainable development in the country.

In addition to the above proclamations, there are also other environmental related proclamations and regulation which have significant contribution in the implementation of EPE and CSE.

These are:-

- *Forestry Proclamation No. 542/2007*
- *Mining Works Council of Ministers' Regulation 82/1998;*
- *Water Resources Management and Administration Proclamation No. 197/2000;*
- *Environmental Health Proclamation No. 200/2000;*
- *Radiation Protection Authority Establishment Proclamation No. 79/1993; and*

4.2.1.2 Environmental Guidelines

²⁷⁸ *Supra* note 252;at page 84

Apart from the environmental laws, environmental guidelines have paramount importance in facilitating the inclusion of environmental issues and principles of sustainable development into development proposals. In Ethiopia, there has not been any environmental guideline in the past. However, following the establishment of the EPA, sectoral EIA guidelines focusing on agriculture, transport, industry, tannery and settlements have been prepared.

Environmental guidelines also are tools that help the incorporation of environmental concerns and the concepts of sustainable development in development decision-making. In addition to these, a general guideline for facilitating EIA in all sectors has been prepared to ensure that proponents, the government and all other interested and affected parties have the opportunity to participate meaningfully in the EIA process.

The EIA Proclamation guideline focuses on the implementation of the following principles:

- The application of the EIA process at an early stage investment planning;
- The participation of all interested and affected parties in the process;
- The consideration of all feasible alternatives for the project; and
- The application of an operational system that ensures transparency and accountability.

4.2.1.3 Environmental Standards:

The EPE underlines that environmental quality standards are indispensable instruments to ensure the well being of human beings as well as other living things. However, there are no environmental standards to apply in Ethiopia.

In principle, it is considered essential that environmental standards should be based on the concrete conditions in the country and have a national character. It also requires adequate and reliable data. Hence, this consideration probably made the development of standards very difficult.

Nevertheless, the EPA, in recognition of the seriousness of the problem, has taken appropriate measure to improve the situation and eventually it has prepared a set of environmental standards to be introduced all over the county and yet not operated.

International Agreements and their Implementation in Ethiopia

Ethiopia has adopted and ratified several international conventions and agreements related to the environment, the major ones are:-

❖ United Nations Convention on Biological Diversity (UNCBD)

The Convention on Biological Diversity has three goals. These are: the conservation of biodiversity; the sustainable use of the components of biodiversity; and the fair and equitable sharing of the benefits arising from the use of genetic resources. The Convention was ratified by Ethiopia by Proclamation 98/94, on May 31, 1994. Complying with the goals of the convention, various activities in terms of projects have been carried out towards the implementation of the convention.²⁷⁹

❖ The United Nations Convention to Combat Desertification (UNCCD)

The objective of this Convention is to combat desertification and mitigate the effects of droughts in countries experiencing serious drought and/or desertification, particularly in Africa. Ethiopia has ratified the Convention by Proclamation No. 80/1997.

To implement the Convention the following activities are being carried out with the coordination of the EPA and financial support provided by various donor agencies. The following are some of the activities that have been and are being carried out:²⁸⁰

- Completion of the drafting of a national program for combating and controlling desertification;
- Providing some capacity building support and implementing awareness raising programs in the regions;
- Preparation by some of the regions of regional programs for combating and controlling desertification.

²⁷⁹ Tewolde Berhan G.Egziabher, *State of the Environmental Report of Ethiopia*. EPA, Archive (Unpublished), at page 132

²⁸⁰ *Ibid.*, at page 133

- Using participatory approaches, pilot projects designed to demonstrate for communities how degraded land can be rehabilitated are underway in four regions.
- The drafting of a gender strategy designed to facilitate the incorporation of gender issues into the program for combating desertification is in the process of preparation.
- A draft document with respect to the establishment of a fund for combating desertification has been finalized.

❖ The Vienna Convention and the Montreal Protocol for the Protection of the Ozone Layer:

Ethiopia ratified and became party to the Vienna Convention and the Montreal Protocol in January 1996. The National Meteorological Services Agency has been mandated for the coordination and supervision of implementation of this convention in Ethiopia.

The basic objectives of the Convention are to combat the negative impact on the environment and human beings resulting from ozone depleting substances by reducing the amounts released and eventually banning their commercial use through internationally agreed measures.

The following activities have so far been conducted towards implementing this convention:²⁸¹

- A program for controlling ozone-depleting substances in Ethiopia is in place.
- A National Ozone Team has been established under the auspices of the National Meteorological Services Agency.
- A project for the repair and reuse as well as a program with respect to the handling of CFC-based refrigerators have been developed;

²⁸¹ *Id.*,

- A draft legislation for the control substances that deplete the ozone layer has been prepared; and
- Training on awareness creation training has been conducted.

❖ **Framework Convention on Climate Change (FCCC)**

Ethiopia has ratified this Convention by Proclamation No. 97/1994 on May 2/1994. This convention takes into account the climate change that has transboundary impacts. The basic objectives of this Convention are to provide for agreed limits regarding the release of greenhouse gases into the atmosphere and prevent the occurrence or minimize the impact of climate change.

The following major activities have been undertaken to implement the Convention at national level:²⁸²

- Within the National Meteorological Services Agency, a Climate Change and Air Pollution Research Team has been established;
- Major sources of greenhouse gases in the country have been registered. A preliminary research has also been conducted to verify the effect of climatic change on the water flow of the Awash River as well as on wheat production and forest resources;
- Research has been undertaken on the best possible measures to minimize greenhouse gas emissions associated with energy utilization as well as from grazing and livestock production.
- A National Climate Change Report has been prepared for the first time in the country and submitted to the Secretariat of the Convention.

❖ **The Basel Convention**

Ethiopia has ratified this Convention by Proclamation No. 192/2000. The objective of the Basel Convention is to control and regulate the transboundary movement of hazardous

²⁸² *Id.*,

waste. It has similar role with the Bamako Convention of 1991 at the regional level of the African continent.

❖ **The Stockholm Convention**

In the year 2002, Ethiopia fully accepted and ratified the Stockholm Convention designed to ban the use of persistent organic pollutants (POPs). The EPA has the full mandate to implement the Convention at the national level. A project to develop an appropriate system for the realization of the objectives of the Convention in Ethiopia is in progress.²⁸³

❖ **The Rotterdam Convention**

This Convention relates to prior informed consent in the context of international trade in specific to hazardous chemicals and pesticides. EPA is responsible for the domestic implementation of this convention, which has been ratified by Ethiopia in 2003.

❖ **International Convention on Trade in Endangered Species, Fauna and Flora**

The objectives of the Convention are to control international trade in endangered species and to ensure that international trade in non-endangered species is carried out in a manner which ensures stable markets and economic benefits for the exporting countries as well as to control and regulate illegal trade in such non-endangered species, fossils and/or their derivatives.

In general, the potential of these international conventions contribute to sustainable natural resources management and environmental protection of the country remains enormous when looked at the possible international technical and financial input.²⁸⁴ The conventions are also dependent for their realizations on the effective implementation of various relevant national policies particularly the EPE and CSE.

4.2.3 Environment Institutional Framework

²⁸³ *Id.*, at page 135

²⁸⁴ *Supra* note 250; at page 361

In 1993, the Ministry of Natural Resources Development and Environmental Protection was established. This institution functioned until 1995, and then it was replaced by the EPA, by virtue of Proclamation No. 9/1995.

In accordance with the powers and duties entrusted upon by the said proclamation, the EPA has been undertaking numerous environmental activities. In 2002 EPA Proclamation No. 9/1995 was also repealed and replaced by EPO Proclamation. This EPO Proclamation included provisions for the establishment of sectoral environmental units as well as regional environmental organs and described the general area of their respective duties and responsibilities. It is evident that this proclamation has significant development in terms of strengthen the environmental institutional framework in the country.

According to EPO Proclamation the objective of the EPA was pointed out to ensure all matters pertaining to the country's social and economic development, activities carried out in the manner that will protect the welfare of human beings as well as sustainable protect, develop and utilize the resource bases on which they depend for survival.²⁸⁵ The particulars of the EPA's power and responsibilities are incorporated in this Proclamation thereon.

The Proclamation has also other articles that treat the conditions under which sectoral environmental units and regional environmental offices are to be established with full details of their duties and responsibilities.²⁸⁶

The EPA has taken the necessary steps and embarked on the establishment of an EIA system for Ethiopia including the preparation of Procedural and Sectoral Guidelines as a prerequisite for the approval of new development activities and projects.²⁸⁷

²⁸⁵ Environmental Protection Organs Establishment Proclamation No. 295/2002 Federal *Negarit Gazeta*-No 9th Year No. 7; 2002, Article 5

²⁸⁶ *Ibid.*, Articles 14 and 15

²⁸⁷ Yonas Tekelemichael, *Current Status of the Environmental Impact Assessment System in Ethiopia*, UNEP EIA Training Resource Manual, (2001); at page 18

At the Federal and Regional levels there are several institutions engaged in natural resources protection, development and research and environment protection related activities. In addition, there are quite a number of non-governmental organizations, civil society institutions and trade associations that are involved in environmental protection, conservation and related activities.

In light of this, institutional set up for the environment protection in the country is believed to facilitate the integration of environmental activities and information exchange hitherto scattered among diverse organizations.

4.3 Environment and Sustainable Development.

In this section, the researcher has tried to see the correlation of environment and sustainable development.

As has been discussed in the preceding chapters, the interdependent nature of socio-economic development and the environment is well noted in terms of realizing the principle of the RTD.

Significance of environmental sustainability and the right to sustainable development emanate from the FDRE Constitutional spirit which is also well reflected in EPE and CSE. In addition, various national development policies and strategies also addressed the issues as a prerequisite for their success.

In the preceding chapters, the researcher has tried to put the definition of ‘sustainable development’ from different sources. However, it is now imperative to provide highlights for what is meant by environment? For purpose of clarity definition of environment is sated in EIA Proclamation as:

the totality of all materials whether in their natural state or modified or changed by human; their external spaces and the interactions which affect their quality or quantity and the welfare of human or other living beings, including but not restricted to, land atmosphere,

*weather and climate, water, living things, sound, odor, taste, social factors, and aesthetics.*²⁸⁸

On the other hand, sustainable development is a process of development from where we stand today towards that ideal state.²⁸⁹ One of the three key points with respect to elements of sustainable development, addressed by John Elkington was stated as:

*there is at least consensus on the three constituent elements of sustainability: economy, environment and society. These three elements are more widely known as the 'three-legged stool' and/or 'triple bottom line'.*²⁹⁰

A known Ethiopian environmentalist on the areas of the relationship between environment and sustainable development in the Ethiopia context stated that:

In the first place, land is degrading fast, so any thing with development activity should comply with improving the land's capacity. Secondly, we have to control pollution thus in attempting to development we do not end up poisoning ourselves and our environment. Accordingly, we have to prevent pollution. The third point is that urban centers are growing fast in our development as a result waste is dangerous to our environment so, our attempt to development should manage both solid and liquid waste. The forth point is, currently, more and more people are becoming urban, that means what countryside produces consumed in towns. So, the organic waste building up in towns is depriving soil of the countryside of its organic content. Therefore, to make sure sustainability of environment and development, urban solid and liquid waste should be treated and get back to the countryside as organic fertilizer. The last but not the list point is that because of atmospheric pollution caused by

²⁸⁸ *Supra* note 277; at Article 2(2)

²⁸⁹ Brady, John, *Environmental Management in Organizations*, (ed.,) : London; The IEMA Handbook, 1st edition (2006) at page 28

²⁹⁰ *Ibid.*, at page 35

*industrialized countries the climate is changing. This means that disease comes up in altitude where the crops will no longer grow or else they have to be replaced by crop from lower altitude. So, we have to adapt to the ever changing climate. In general, our development should allow the aforementioned situation in light of our environment; otherwise, it cannot be sustainable.*²⁹¹

A number of international conventions and declarations incorporated the concept of sustainability of environment and development as important principle. As stipulated in the Rio Declaration:

*Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.... In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it...*²⁹²

It is also convinced by virtue of different declarations that:

*economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve a higher quality of life for all people.*²⁹³

According to EPA's articulation of national vision towards ensuring environmentally sustainable development, Ethiopia has a vision to achieve productive environment, self-reliance, improved qualities of life, equity within and between generations of Ethiopia through environmentally sustainable development and stewardship.

²⁹¹ *Supra* note 198

²⁹² *Supra* note 2; principles 1 and 4

²⁹³ Beijing Declaration, para. 36

As to the researcher's view, setting a vision of this kind will help the EPA as an institution to implement its duties and responsibilities identifying the focal points per se.

As discussed above, the Ethiopian economy directly or indirectly is based on environmental resources. The sustainability of the Ethiopian economy including the agricultural sector which plays a dominant role in the economy as a whole is possible only if, the environmental resources are protected, conserved and utilized in a sustainable manner. Thus, the researcher's view in this regard is that it is important that every economic and social development activity in the country should take environmental concerns into account.

4.4 Environment and its Link with Poverty.

Environmental degradation threatens physical and economic survival.²⁹⁴ It reduces the environment's ability to produce biomass for food, feed and household energy. It also undermines prospects for fighting poverty and achieving sustainable development.²⁹⁵

As indicated in chapter three of this research and widely discussed thereon, poverty is a broad concept where it has economic, social and political dimensions. It is also characterized by a lack of access to resources and goods such as land and clean water for the satisfaction of basic needs, and to health and educational services.²⁹⁶ The economic dimension is not only limited to lack of basic necessities such as food, shelter and clothing but also relates to the lack of access to health and educational services as well as lack of employment opportunities, resources and the like.²⁹⁷

²⁹⁴ *Supra* note 14; at page 188

²⁹⁵ *Ibid.*,

²⁹⁶ *Supra* note 266; para., 13

²⁹⁷ *Supra* note 250

Environmental degradation and poverty eradication are, therefore, mutually reinforcing elements and have to be implemented together in Ethiopia's development initiatives. To that end, Ethiopia has developed a poverty reduction strategy designed to bring about economic and social development.

According to the Annual Progress Report of PASDEP (2006/2007), poverty and environmental degradation are identified as the two closely related phenomena in the Ethiopian context.²⁹⁸ Apparently, environmental degradation is one of the causes of prevalence of widespread poverty. On the other hand, extreme poverty contributes greatly to the ever-increasing environmental degradation in the country. It is therefore imperative to strike a balance in the two areas and ensuring sustainable development in the country.

To that end, the PASDEP has demonstrated the renewed commitment of the Government and has incorporated environmental goals and targets²⁹⁹ and thus implementation of environment component of PASDEP has been underway.

It is also well noted in the CSE document that Ethiopia is rich both in human and natural resources.³⁰⁰ However, the resources were not utilized in a sustainable way and the environment was not given proper care. Consequently, resource degradation and poverty created a vicious cycle reinforcing each other. Hence, there is no question to effectively implement national development policies, strategies, and programs to curb the situation.

It is globally accepted that the essential task of eradicating poverty is an indispensable requirement for sustainable development in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.³⁰¹

²⁹⁸ *Supra* note 199

²⁹⁹ *Supra* note 14; at page 189

³⁰⁰ *Supra* note 266

³⁰¹ *Supra* note 20;para., 143

As indicated in the Africa Environmental Outlook, published by the United Nations Environment Program (UNEP) in 2002, Ethiopia holds the 171st position out of 174 countries in the human development index. It was almost first from the bottom.

A year after the recognition of the principle of the RTD in the FDRE Constitution in 1995, the CSA carried out study on poverty line and the report revealed that an estimated 46 percent of the population was under the poverty line, which means that 46 percent of Ethiopians meet their basic requirements on an average income of Birr 3 per day.³⁰²

As indicated above, Ethiopia is rich in both environmental and human resource; however the human development index and the CSA survey clearly shows that participation of all sectors of the society is indispensable in implementing poverty reduction strategies such as PASDEP,CSE,EPE and other sectoral development policies. This, in turn, accelerates the full realization of the RTD in the Ethiopian context.

4.5 Integrating Environment with Development.

As indicated above, environmental, social and economic developments are indispensable elements of sustainable development which is part and parcel of the principle of the RTD as proclaimed under the FDRE constitution.

In light of this, development is essential for every country if it is to improve the quality of life and to satisfy the needs of each person. However, a short-term view can destroy the very long-term development of a country sets out to achieve.³⁰³ Pursuing a policy of environmentally sustainable economic growth would thus be the mechanism whereby environment integrates with development.³⁰⁴

³⁰² Central Statistics Authority 1996 Survey ;published in 1999

³⁰³ *Supra* note 266; para.,8

³⁰⁴ *Ibid.*,para.,9

Accordingly, enhancing public awareness and understanding about the link that exists between environment and development is one of the specific objectives outlined in the EPE.³⁰⁵

Agriculture has been identified as the lead growth sector and the foundation of Ethiopia's economic development.³⁰⁶ As stated in the preceding chapters, the agricultural sector's share of the GDP is about 50 percent.³⁰⁷ It is thus in the view of the researcher sustainability in agricultural development depends on proper utilization of the natural resources and environment of the country in complying with the environmental policies and laws that have been issued by Government.

In general, an integrated approach towards environment and development well reflected in the national development and environmental policies of the country. In the researcher's view, protection of the environment would constitute an integral part of sustainable development process. Therefore, sustainable development strategies and programs that aim at integrating environmental protection requirements into economic, social and development policies should be implemented at all levels.

Conclusion and Recommendations

The FDRE Constitution guarantees the RTD as one of fundamental democratic rights and article 43 of the constitution, inter alia, recognizes the right to sustainable development, the right to improved living standard and the right to participate in national development.

The FDRE Constitution also provides basic and comprehensive principles and guidelines for environmental protection and it states that everyone has the right to live in a clean and healthy environment and the Government will make every effort to provide such an environment.

³⁰⁵ *Supra* note 251; para.,2.2(i), at page 3

³⁰⁶ *Supra* note 266; para.,12

³⁰⁷ *Supra* note 178

In addition, the constitution holds the Government and the people of Ethiopia are responsible for the preservation of natural resources and maintenance of ecological balances. In this respect, environmental policy, conservation strategy and, laws and regulations have come to surface. Hence, the EPE has introduced the socio–economic and environmental correlation in order to achieve sustainable development.

As embodied in article 85(1) of the FDRE Constitution the government’s polices and laws are guided by the principles and objectives of the constitution. Hence, economic social and environmental objectives stipulated in the same constitution are also very important in terms of realizing constitutive components of the RTD such as the right to sustainable development, the right to improved living standard and the right to participate in national development polices.

Given all the international discourse against various issues regarding the RTD, it is evident that the RTD is considered as universal and inalienable right and an integral part of fundamental human rights. Since Ethiopia also recognized the RTD the government is duty bound to the full realization of the right.

As regards the legal status of the RTD in the Ethiopian context, there are two views; the first view is that obligation of states in relation to socio-economic rights is one of *progressive realization within the maximum available resource, which is enshrined in the ICESCR article 2 (1), the UDHR articles 22 and 25(1), the African Charter of Human and Peoples’ Rights article 22, and FDRE Constitution articles 41 and 90.* Currently, human rights in general and socio –economic rights in particular entail duties to respect, protect and fulfill. States should avoid discriminatory practices in the provision of services that are meant to realize socio-economic rights without availability of resources being an issue. Hence, cases concerning these negative aspects to the rights may be adjudicated and decided by courts of law in same way as any other case.

The second view is that the RTD is one of the socio- economic rights and it is clearly a programmatic right and thus it is not justiciable. However, the RTD draw its legal

foundation from the aforementioned instruments the right is not justiciable. Based on the FDRE Constitutional explanatory document the finding of the research in this respect upholds the second view.

From the very essence of the principle of the RTD States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development.

Apparently, the primary responsibility for implementing the right to development belongs to the State. In order to fulfill these obligations all levels of government, public sector organizations, and the community must coordinate their actions. This coordination should be not only among themselves, but also with other stakeholders within the State. In this respect, the existence of a functioning coordination mechanism would be essential for effective implementation of the right to development. The Copenhagen Declaration on social development also provides that: “all organizations and local institutions and local authorities, and all actors of civil society need to positively contribute their own share...”

National actions should be aimed at the implementation of each of the constituent rights of the right to development, individually as well as in combination with each other, and as a part of the development process. That process would consist of a development program with a set of policies sequentially implemented and a phased realization of different rights and corresponding freedoms.

Generally speaking, policy is a general guideline in which government intentions, desires and in some cases strategies are expressed to achieve certain goals and objectives. However, implementation requires the turning of policies into obligatory provisions, i.e., laws, and regulations. In this regard, the government formulated a number of policies and strategies in different sectors.

Ethiopia has developed a poverty reduction strategy designed to bring about economic and social development. Measures have been taken to ensure the participation of all sectors of the population in the process.

With regard to the socio-economic development the ADLI, SDPRP and PASDEP are the prominent whereas in light of environment the EPE, CSE, environmental laws and other sectoral strategies are in place. In addition, the effort made to harmonize the existing national policies with the MDGs has also a paramount importance.

On the other hand, some mention that the policy documents including SDPRP and PASDEP faced formulation problems in terms of comprehensive public participation from the grass root level. Since policy formulation and its implementation requires prudent approaches of public debate and the accommodation of the interests of important stakeholders in all sector is very important.

As discussed above, Ethiopia has guaranteed the RTD in the FDRE Constitution and further stated the guiding principles that pave ways to implementation through development strategies plan and programs. Accordingly, Ethiopia has adopted Sustainable Development Poverty Reduction Program (SDPRP) and PASDEP consecutively.

With regard to achieving the MDGs, it will continue to depend on favorable external circumstances. Because, it is some times beyond Ethiopia's control. Therefore, it is imperative to enhance the global partnership to achieve the internationally-agreed agenda of achieving the MDGs.

As indicated above, the right to sustainable development is part and parcel of the concept of the RTD. It is thus critical to insure its implementation in the socio economic and environmental aspects of development. In this respect, the researcher assessed selected sectors such as agriculture, water resource development, capacity building and good governance, population and development. In each areas, there are development policies and strategies that, in turn, indicates the government's concern to ensure sustainable development.

If we take the case of population and development for instance, there is no program and action plane to implement the existing population policy of Ethiopia. Hence, the implementation of the strategy should not be left only for those institutions to implement them. Currently, the population is steadily growing annually. So, to achieve the goal of the policy it is required to harmonize population and development in all sectors by way of setting comprehensive population and development program. Therefore, population issues should be integrated in all programs of socio-economic development to ensure sustainable development in the country. It is also necessary to develop the comprehensive population program that helps to set monitoring and evaluation mechanisms for the implementation of the policy objectives in line with development.

It is also imperative to provide emphasis for water resources development incorporating in national development policies and follow up the implementation by harmonizing with the global target of achieving clean water and sanitation. In order to reduce overlaps of responsibilities between sectoral policies and strategies, an integrated water resources management should be put in place. Such a framework promotes the integration of all aspects of water resources in the country by reducing duplication of efforts and wastage of human and material resources.

It is worth mentioning that the role of participation of the public in the national development is imperative, article 8(3) of the FDRE Constitution guarantees democratic participation of the people where by sovereignty shall be expressed. Apart from this, article 43(2) of the same constitution recognizes the right to participation of the people in national development policies from the formulation to their implementation. However, the research has assessed the mechanism whereby popular participation put into practice should be set.

The FDRE Constitution further provides public participation as expression of the peoples' sovereignty and conformed participation of the peoples in national development policies and projects. Moreover, the natural resource and environmental policies and strategies also recognized the importance of peoples' participation. As stated in all reviewed

sectoral policy documents, they do not have clear operational guidelines on how to implement the policy strategies concerning participation.

The integration of environment and development; however, has created a debate over the RTD. Implicitly, the Rio Declaration accepted that the right to development must be fulfilled so as to equitably meet development and environmental needs of present and future generations. So, this specific principle reflects national environmental concern for the fulfillment of social and economic development.

The researcher finds out that the major deficiency of natural resource and environmental protection in Ethiopia has not primarily been the lack of policies and legislation, but the enforcement of them. In this regard, natural resource policies, laws, regulations and the mechanism of their successful implementation demand institutional stability, and organizational strength.

As has been discussed about the over all document of the CSE, the policy objectives, the programs and strategies drawn are relevant to address the country's need for natural resource and environmental management on a sustainable basis.

It has been noted that the EPE also considers various sectoral and cross-sectoral policies addressing the need to the policy -oriented approach to other inter -related sector of the environment and the need to tackle issues like population and the environment, community participation, access rights to natural resources including water resource, and etc respectively.

As regards the environmental law regime in Ethiopia, EIA Proclamation is indispensable instrument to strike a balance between environment and sustainable development. Even though this proclamation was enacted in 2002 there are main constraints that weaken the implementation of EIA. These are absence of enforcement tools such as monitoring

system, lack of public consultation mechanism, insufficiency of EIA to integrate environmental considerations at the planning phases of development efforts above the project level (i.e. at policy, plan, and program level), limited technical and managerial capacities to implement EIA, inadequate financial and technical resources for capacity building and competence in EIA, etc are observed.

It is also clear that the link between poverty and environmental sustainability are particularly persuasive. It is difficult for the poor to avoid degrading the environment however they are victims of environmental deterioration. Thus, policies that are effective in reducing poverty will help reduce population growth and decrease pressure on the environment. In light of this, the EPE, CSE and PASDEP cumulatively play a pivotal role in ensuring sustainability both in development and environment.

As far as the interrelationship of development and environment is concerned, different international conventions or declarations incorporated the principle of the RTD. In this respect, environment policies and strategies and their implementation towards achieving sustainable development has a significant role.

To sum up, development must be looked at not only from the viewpoint of immediate benefits to society but also from the long-run merits it generates to coming generations.

Accordingly, based on the findings of this study, the researcher forward the following recommendations:-

- ❖ In practice the principle of public participation is concerned with access to decision making and the exercise of power in the execution of projects, which lead up to the program for development, it is also essential element of the RTD recognized under the FDRE Constitution. In this regard, it is observed that there is no unique model of public participation in various development activities. So, there should be special provision or procedure to be drawn up and implemented in order to ensure effective participation.

- ❖ National development policies, strategies and programs are highly important for the realization of the RTD and its constitutive elements like the right to sustainable development and, the right to improved living standards and others too. However, the basic instruments per se PASDEP, EPE, and CSE lack effective monitoring and evaluation mechanisms in terms of accountability. Hence, system should be designed to establish a more independent structure respectively to enhance their effectiveness and reliability.
- ❖ The Water Sector Development Program implementation has also major problems and challenges. So, in order to mitigate the problems and address the challenges the government should give due consideration in setting the water policies and institutional framework within the wider social and economic context of the country. Thus, the moves towards effective participation and meaningful link between local communities and government agencies can be ensured
- ❖ Although the policy clearly stated the duties and responsibilities of agencies implementing the national population policy at the national and regional levels, there is no mechanism in place to monitor and evaluate the population policy goal, objectives and targets. Therefore, it needs to set a population program.
- ❖ The move towards achieving development in the country should be appreciated because in one way or the other the steps being taken by the government amounts to commitment for the full realization of the RTD as stipulated in the FDRE Constitution. However, it has to be noted that where unemployment is rampant and the number of people with daily needs is quite large, mechanisms have to be created to focus on development activities that meet citizens' basic needs.
- ❖ Environmental guidelines have paramount importance in facilitating the inclusion of environmental issues and principles of sustainable development into development proposals. In this respect, EPA prepared a draft and yet not operated.

However, currently, there are not environmental quality standards to apply in Ethiopia. Hence, government should take quick measure to that end.

❖ To improve the low-level implementation of the EIA process in Ethiopia:-

Efforts must be made to enhance awareness. In this regard, all stakeholders must start an extensive awareness creation campaign,

Preparing awareness raising programs for communities about environmental and Impact Assessment issues and involving different groups (including religious leaders) in the awareness creation program,

Regional environmental organs and sectoral units must be strengthened to decentralize the EIA process,

Guidelines which provide for the registration, accreditation and licensing of consultants must be prepared,

Efforts must be made for the realization of functional linkage, including revising the law to clearly set up a viable institutional link between EPA and other organs.

Reference

1. Books, Journals and other Materials

Andronico, O., Adede, *International Environmental Law Digest: Instruments for International Responses to Problems of Environment and Development*, Elsevier.1972 – 1952 (1993)

Agyeman, Julian and Evans, Bob, *Local Environmental Policies and Strategies*: Longman (1994)

Barnard, Duar, *Environmental Law for all*, Impact Books CC, Pretoria (1999)

Boyle, Alan, *The Role of International Human Rights Law in the Protection of the Environment. In “Human Rights Approaches to Environmental Protection”* ed., Boyle, Alan; Michael, Anderson, Oxford University Press. (1999)

Brookfield, Harold, *Sustainable Development and the Environment: The Journal of Development Studies*. Vol. – 25 No. 1 (1988)

Brady John, *Environmental Management in Organizations*, (ed.): London; The IEMA Handbook, 1st edition (2006)

Brown lie, Ian: *Principles of Public International Law*, 6th ed., Oxford University Press (2003)

Bulajic, Milan. *Principles of International Development Law* 2nd ed. Martinus Nijhoff Publishers: London (1993)

Campbell, C., Dorianne. *Development with Women*, Oxfam GB (1999)

Centre of Development and Human Rights, “The Right to Development:A Primer”, Sage Publications, New Delhi. (2004),

Cunningham, William et al., *Environmental Science: A Global Concern*. 8th ed., Mc Graw-Hill: New York (2005)

Eshetu Chole, *The Role of Enhancing People’s Participation in Poverty Reduction* Discussion Paper Prepared for the Fourth Anglophone Africa Regional Poverty Seminar, organized by the World Bank, Bahir-Dar, Ethiopia, 11-15 March 199

- Faure, Michael and Niessen, Nicole. *Environmental Law in Development* Edward Elger Publishing. UK. (2006)
- Faure, Michael and Skogh, Goran *The Economic Analysis of Environmental Policy and Law: An Introduction* Edward Elger Publishing Inc. (2003)
- Genugten, V., Willem and Bustillo P., Camilo. (Ed,) *The Poverty of Rights: Human Rights and the Eradication of Poverty*, Zed Books Ltd., London (2001)
- Getachew Adem, *Assessment of Poverty Reduction Strategies in Sub Saharan Africa: The Case of Ethiopia*, published by OSSERA (2007)
- Getachew Minas. *Review of the National Population Policy of Ethiopia*, In Digest of Ethiopia's National Policies, Strategies and Programs as edited by Taye Assefa: Forum for Social Studies (2008)
- Haile Kebret, *Assessment of the Poverty Reduction Strategy in Ethiopia*, In Assessment of the Poverty Reduction Strategy in Sub-Saharan (2007) Africa: The Case of Ethiopia, published by OSSERA
- Handelman, Howard. *The Challenge of Third World Development* 2nd Prentice Hall, Inc. (2000)
- Harris, D.J, *Cases and Materials on International Law* 5th ed., Sweet & Maxwell: London (1998)
- Heyns, C, and Viljaen F. *The Impact of the United Nations Human Rights Treaties on the Domestic Level* (Kluwer Law international) (2002)
- Idris, *The Structure of Human Rights Regime of the FDRE Constitution Fundamental Rights and Freedoms* “In Proceedings of the Symposium on the Roles of Courts in the Enforcement of the Constitution. Faculty of Law, ECSC
- Kassahun Berhanu , “Assessment of Poverty Reduction Strategies in Sub-Saharan Africa: The Case of Ethiopia” 2007 (OSSREA)
- Kirchmeier, Felix. *The Right to Development – where do we stand?* Fredric Ebert Stiftuning. (2000)
- Kiss, Alexander *An Introductory Note on a Human Right to Environment in Environmental Change and International Law* (ed) Edith Brown Weiss United Nations University Press, (1992)

- Kumar, Shiva A.k *MDGs and the Right to Development: Issues, Constraint and Challenges*, (2004)
- Lynnton, K., Caldwell, *International Environment Policy* 2nd ed., Duke University Press. (1990)
- Malanczuk, P. (ed.), *Akehurst's Modern Introduction to International Law*, 7th ed, London and New York Rout ledge, (1997)
- Marks, Stephen. *Obstacles to the Right to Development*. Harvard University (2003).
- Nicolas, De Sadeleer, *Environmental Principles from Political slogans to Legal Rules*. Oxford University Press (2002).
- Mellese Damtie and Mesfin Bayou, *Overview of Environmental Impact Assessment in Ethiopia: Gaps and Challenges*. Published by MELCA Mahiber. Addis Ababa, Ethiopia (2008)
- Messaye Demissie, *Rights and Obligations of States to Protect and Preserve the Environment*; University of Amsterdam (2001) HOPR Archive (Unpublished)
- Minasse Haile, In *Suffolk Traditional Law Review* Vol-20,1: *The New Ethiopian Constitution: Its Impact upon Unity Human Rights and Development* (1996)
- Nickum E., James and Oya, Kenji. *New Regional Development Paradigms: Environmental Management, Poverty Reduction, and Sustainable Regional Development*, Vol.4, Greenwood Press: London (2001)
- Opschoor, B., Johannes. *Environment, Economy and Sustainable Development* Wolters-Noordhoff (1992)
- Philippe, Sands. *Principles of International Environmental Law*, 2nd ed., Cambridge University Press, Cambridge. (2003)
- Richard, L., Reverz (ed.), *Environmental Law and Sustainable Development: the US, the European Union and the International Community*, Cambridge. (2000)
- Sengupta, Arjun. *The Right to Development as a Human Right* (2000)
- Shaw, Malcolm, N., '*International Law* '5th ed., Cambridge, (2004)

- Tesfaye Tafesse, *A Review of Ethiopia's Water Sector Policy, Strategy and Program*, In Digest of Ethiopia's National Policies, Strategies, and Programs edited by Taye Assefa: Forum for Social Studies. (2008)
- Vibhute, Khushal, *Environmental Policy and Law of Ethiopia: A Policy Perspective* (2008) Journal of Ethiopian Law; Vol., 22, No.1,
- Zemicael Desta, *Development Issues. The Population of Ethiopia, 1990-2025: Possibilities for the Future*, Economic Division, Research School of Pacific Studies (1993)
- Annual Progress Report 2006/07 of a Plan for Accelerated and Sustained Development to End Poverty, Ministry Of Finance and Economic Development December, 2007
- Ethiopia: The Millennium Development Goals (MDGs) Needs Assessment Synthesis Report Development Planning and Research Department -Ministry of Finance and Economic Development (MoFED) December 2005 Addis Ababa
- Ethiopia: Progress towards Achieving the Millennium Development Goals (MDGs): Success, Challenge and Prospects: Planning and Research Department, Ministry of Finance and Economic Development (MoFED) September 2008 Addis Ababa
- Millennium Development Goals Report: Challenge, and Prospect for Ethiopia: MoFED & UN Country team (March 2004) Addis Ababa.
- Our Common Future: By the World Commission of Environments and Development
- United Nations Development Program (2003a), "Human Development Report 2003", Oxford University Press, New York. (2003)
- United Nations Development Program "Millennium Development Goals Reports: An Assessment:, Volume 1: Main Report, Evaluation Office, United Nations Development Program, New York. (2003),

-----United Nations Development Program, “Human Development Report 2000”, Oxford University Press, New York. (2000)

-----United Nations Development Program (2003b), “Development Effectiveness Report 2003: Partnerships for Development,” Evaluation Office, United Nations Development Program, New York. (2003),

2. Domestic Laws and Policies

The Constitution of the Federal Democratic Republic of Ethiopia *Negarit Gazeta* 1st Year, No.1, 1995.

Environmental Impact Assessment No. 299/2002 *Negarit Gazeta* 9th Year, No.11, 2002.

Environmental Protection Organs Establishment Proclamation No.295/2002 *Federal Negarit Gazeta*-No 9th Year No. 7, 2002,

Environmental Pollution Control Proclamation No. 300/2002 *Federal Negarit Gazeta*-No 9th Year No. 12, 2002,

Solid Waste Management Proclamation No.513/2007 *Federal Negarit Gazeta*-13th Year No. 13, 2007,

Plan for Accelerated and Sustained Development to End Poverty (PASDEP) an instrument to finding a strategic framework for the five years period (2005/06 – 2009/10)

Environmental Protection Authority and Ministry of Economic Development and Corporation, *Conservation Strategy of Ethiopia* ,Vols I-IV (1996)

The Environmental Policy of Ethiopia (1997)

3. International Conventions and Declarations

Declaration of the United Nations, Conference on the Human Environment (Stockholm's) (1972)

Declaration on the Right to Development Adopted by GA-Resolution 41/128 (1986)

International Covenant on Civil and Political Rights (1966, entered into force in 1976)

International Covenant on Economic, Social and Cultural Rights of (1966, entered into force in 1976)

Kyoto Protocol to the United Nations Framework Convention on Climate Change.(1992)

Rio Declaration on Environment and Development, (1992)

The Charter of the United Nations, (1945)

The African Charter on Human and Peoples Rights (adopted June 27, 1981 entered into force Oct. 21,1986)

The United Nations Convention to Combat Desertification (UNCCD) (1997)

The Vienna Convention and the Montreal Protocol,(1994)

Universal Declaration of Human Rights, (1948)

United Nations Convention on Biological Diversity (UNCBD), (1994)

United Nations Millennium Declaration GA Resolution 55/2, (2000)

Vienna Declaration and Program of Action (1993)

World Summit for Social Development Copenhagen Declaration (1995)

4. Internet Sources

<http://www.africa-union.org>

<http://www.deleth.ec.europa.eu/bluebook/index>

<http://www.globalclimate.org>

<http://www.jstor.org>

<http://www.law.harvard.edu/students/org>

<http://www.unhchr.ch/html>

<http://www.un.org/millenniumgoals/indexhtml>