

**ADDIS ABABA UNIVERSITY, FACULTY OF LAW
GRADUATE PROGRAM**



**ENFORCEMENT OF SOLID WASTE
MANAGEMENT LAWS IN ADDIS ABABA:
THE LAW AND THE PRACTICE**

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENT FOR THE DEGREE OF MASTER OF LAWS (LLM) IN
PUBLIC INTERNATIONAL LAW

BY: ANDARGACHEW WEDAJE GELAW

ADVISOR: MEKETE BEKELE (LL.B, LL.M)

JUNE 2011

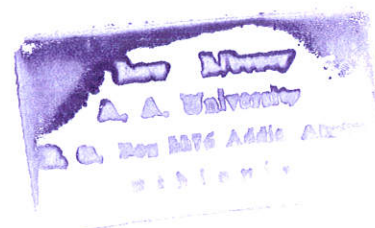
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**“Waste is a consequence of our everyday life,
if you do not manage it, it gets dumped”.**

**A.Aarne Vesilind, William Worrell, Debra
Reinhart – in, Solid Waste Engineering, 2004.**

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The present work is totally limited to exploring legal issues related to solid wastes in particular, safe in relation to their management and enforcement. The next section is devoted to highlight some notions in connection to same, i.e., solid wastes.

2.1.1. Solid Wastes: Definition, Nature and Impacts on Environment

The term “solid waste” refers to things which are no more needed. Solid waste may also denote all types of movable property which are disposed². Things which appear to be useless seen in terms of both economic importance as well as physical presence can be identified as a solid waste material. Solid wastes can also be defined as a special type of waste to be created by human beings as a necessary consequence of everyday life³. By virtue of this definition, solid wastes can be differentiated from other substances which are available around us due to the force of nature. Besides, it seems that other things which are solid in nature and to be generated by animals are precluded from being considered as solid wastes. However, it generally appears valid and acceptable to perceive solid wastes as things /materials/ which are useless, at least at first sight, and generated as a consequence of both activities of living things, especially human beings, as well as force of nature.

Solid wastes are of different types owing to the various sources they emanate from. The main types of solid wastes, among others include; domestic wastes, construction and demolition wastes (also known as excavation residues), industrial wastes, agricultural wastes (also known as farm waste), and workshop wastes⁴. Owing to the varied source that they come from the materials which fall under the category of solid wastes include the following substances. These are left over meals, broken glasses, papers, plastics, pieces of furniture, oil and grease, paints, metals dust , stones, sewage sludge, parts of plants, manure, soil, sand, aluminum cans, steel cans, etc. In line with this, it is to be understood that the major sources of solid wastes, as can be easily seen from the nature of the wastes themselves, appear to be either, residential (households), commercial, institutional ,municipal services, construction organizations, treatment

² Id, P.1

³ P. Aarne Vesilind, William Worrell and Debra Reinhart, *Solid Waste Engineering*, (India ed.) Books/cole Cengage Learning, Saurabh Printers pvt. Ltd, Australia, Canada, 2004, P.1

⁴ note 1 above, at 7

plant sites, industries and agriculture⁵. In addition to these, dead animals, textiles, leather (hide), steel, concrete, dirt, special wastes (for example, bulky items like old refrigeration), tyres, rubbish, litter, sweepings, cardboard and hazardous wastes, (like battery), are also considered to constitute solid wastes .

Solid wastes being a necessary consequence of everyday life are found within and around the environment on which the human person lives. And the fact that numerous solid wastes exist results in the deterioration of the human environment. This is mainly due to the reason that the environment, where the solid waste is accumulated, will be exposed to pollution thereby posing a serious and direct threat on the health of people living around it. Besides, the environment will lose its aesthetical value denying people both a workable and recreational conducive place. This is obviously because the combination of different solid wastes will pollute the surrounding air and also produce some kind of undesired and ill-perfumed (unhealthy) odors. The accumulation of solid wastes in a certain area also lays a fertile ground for the breeding of certain well known vectors of human diseases like insects and rodents thereby tampering the safe and healthy life and development of the community residing around the accumulated solid waste⁶. Hence, it is possible to contend that the presence of solid wastes within a given community will have a logical and necessary adverse impact on the environment concerned.

2.1.2. Managing Solid Wastes

It is natural that wastes in general and solid wastes in particular continue to exist so long as the human person is existing, though they are proved to have the capacity to entail certain consequences which are detrimental to the health of human beings. However, in a bid to do away with such undesired effects of solid wastes, the two possible solutions appear to be, either to totally avoid wastes (this could mean to stop living at all) or to manage them⁷. The first option seems to be both, physically impossible and mentally unthinkable owing to the inseparable nature of wastes with the existence of mankind himself. So the other option for human beings is to deal with the issue of solid waste management. But, what is meant by “solid waste

⁵ note 1 above, at 9-13

⁶ Heleen Barterlings, *Municipal Solid Waste Management Problems: An Applied General Equilibrium Analysis*, Wageningen University, 2003 , p. 3-4

⁷ note 1 above, at 1

management?” and what purpose does it serve? The next section will delve in to addressing these two questions.

A. Meaning and Purpose:

“Solid waste management” (herein after, SWM) refers, generally to an act of handing solid wastes with the prime aim of avoiding its hazardous effects. In other words, it represents the notion of “finding and applying a better way of, among others, avoiding, reducing, recycling or disposing”⁸ solid wastes from a given environmental zone. It basically involves the employment of a system whereby solid wastes can be “controlled during generation, collection, storage transfer and transport, processing as well as disposal”, all with a view to minimize their possible adverse effects on public health, economics, engineering, conservation, aesthetics and other environmental considerations”⁹. Generally, solid waste management as a purposeful undertaking encompasses activities including collection, handling, storage, transporting, transferring and processing of solid wastes.

In order for a full fledged “solid waste management” scheme (system) is in place, three basic requirements need to be fulfilled. These are: the availability and preparation of a well-organized administrative, financial and legal planning¹⁰, with the absence of one of which would result in a failure of the total scheme.

The principal mission in managing solid wastes, therefore, pertains to be the protection of the environment thereby contributing to the sustainment of the safety and health of the public. This, in turn, has the effect of enhancing the aesthetic value of the human environment, as a whole.

B. Mechanisms of Solid Waste Management

Even if it is said that the ultimate and principal goal of managing solid wastes is to create an environment free from the adverse effects of solid wastes, there exist multiple mechanisms through which this can be done. However, it should also be born in mind that each method of

⁸ Ibid

⁹ note 1 above, at 6

¹⁰ Ibid

solid waste management has its own peculiar features. In other words, all the mechanisms that are being applied in relation to solid waste management exhibit their own weaknesses and strength seen in terms of the impact they entail on the environment. In addition to this, it is very essential for anyone who is in charge of the management of solid wastes to familiarize oneself with the general nature of each of the mechanisms before embarking upon the task of managing solid wastes. This, among others, includes the prior acquisition of adequate information regarding the situations requiring the application of a particular solid waste management mechanism. Besides, the specific features and characteristics of a given type of solid waste should also be taken in to account in determining the appropriate technique and method of management. This implies, in fact, that every kind of solid wastes cannot be and /or should not be managed by using a single mechanism, at least effectively and efficiently.

On the other hand, it can also be perceived that the particular type of waste, its amount as well as the level of development and technological advancement of a state may dictate as to which kind of mechanism should be applied. And, in some instances the costliness of the mechanisms can be taken in to consideration. Thus, depending on what has been mentioned above, a specific type of mechanism or the combination of two or more types can be used. Some of the most important solid waste management mechanisms include; reduction, reuse, recycling, composting, land filling, and incineration¹¹.

C. Municipal Solid Waste Management

Municipalities, being a body representing an identifiable environmental territory with a specified group of population having their own autonomous administrative authority, are expected to properly address the issue of managing solid wastes existing within their boundary. In order to do this, among many others, they should devise their own systems through which they can manage the solid wastes to be produced by their residents. Besides, municipalities are required to come up with a workable and adequate legal framework to combat an excess generation of solid wastes, in general. And along this, they have to clearly provide the means and manifest a

¹¹ Peterson Obara Maguta, Isaac Meroka Mbechaet, et al, *Formulation and Implementation of Operation Strategies Used in Solid Waste Management: Case Study of City Council of Nairobi*, Journal of African Research in Business and Technology vol., Article ID 842702, 2010, P.4

commitment to devote some of their administrative agencies to accomplish the task of dealing with the management of solid wastes.

Municipal solid waste management (MSWM) refers to the management of all types of solid wastes to be collected from different sources by and within the municipality. The principal sources of municipal solid wastes are those to be originated from households, commercial organs, industrial premises, hospitals, and various institutions excluding those agricultural and industrial process wastes.¹² As such, municipal solid wastes, basically, include those non-hazardous wastes, street sweepings, construction and demolition debris, sanitation residues, trade and non-hazardous industrial refuse, treated bio-medical solid wastes as well as all domestic refuses¹³.

Hence, MSWM simply refers to the endeavors that a given municipality exerts so as to deal with the varying solid wastes within the municipality. In most instances, if not in all, the mandate to address issues related to solid waste management is vested upon local authorities¹⁴. By virtue of this mandate, of course, the roles to be played by local authorities within municipalities range from the designing and formulation of SWM policies to implementing them through the actual enforcement of the rules and regulations relating to same¹⁵.

Solid waste management, being the responsibilities of local authorities, either through direct empowerment by law or through delegation by states, marks a purposeful undertaking involving the application of significant amount of resources. As such, municipalities, *inter alia*, are expected to make use of their own respective resources which includes funds, as well as available manpower and equipment in order for managing solid wastes to be generated within their boundary¹⁶.

Solid wastes to be generated and collected in municipalities are (could be) of different types owing to the consumption nature of residents. And this results in making the task of managing

¹² Kurian Joseph (Dr), *Lessons From Municipal Solid Waste Processing Initiatives in India*, Center for Environmental Studies, Anna University p.1

¹³ Ibid

¹⁴ Ali Jafari and Saed Hamed Mirhoseini , *Municipal Solid Waste Management in khoram Abad City*, Department of Environmental Health, Corestant University (Medical Sciences) Goldaght, Khoram Abad, iran, p.2

¹⁵ Ibid

¹⁶ note 12 above, at 1

solid wastes more cumbersome as the composition would be very diverse and complex¹⁷. This, in turn, entails the need for the employment of appropriate techniques of dealing with it since each type of solid waste exhibit a unique feature of its own. The application of a suitable technology for the effective and efficient management of municipal solid wastes is also considered to be the duty of the incumbent local authority within the municipality.

2.2. Enforcement of Environmental Laws In A Municipality

The overall aim and mission of enforcing environmental legislations, generally, pertains to be the protection of the human person as well as the environment in which he/she lives. If the human environment is to contribute, therefore, for the safe and healthy existence of human beings, it appears indispensable that there exist comprehensive and real environmental laws in a municipality.

Environmental laws can be many depending on the type of the environmental value needed to be protected. Consequently, they can be violated in different forms thereby causing harm to the interest of mankind as a whole. When environmental laws are violated, among other things, there will be an adverse impact over ecosystems, biodiversity, atmosphere and even the natural setting in general, which forms an integral whole for the human existence¹⁸. In other words, the non-observance of environmental laws will have a direct impact on the safe, healthy, productive and aesthetically and culturally pleasing as well as enjoyable nature of the environment¹⁹, seen in terms of the will and interest of human beings. This, of course, calls for the prevalence of proper as well as regular enforcement of environmental laws. However, in order to be successful in accomplishing the task of enforcing environmental legislations, certain basic steps need to be taken. These, *inter alia*, include the preparation of a sound enforcement schedule (program) along with the development of the requisite firm commitment on the part of the body responsible

¹⁷ note 1 above, at 6

¹⁸ *Environmental Crime: Crime Profile Series*, Commonwealth of Australia-the Australian crime commission (Acc), April, 2011, p.2

¹⁹ Charles R.Toy, and A. Michael Leffler, *Criminal Enforcement of Environmental Law*, Michigan Law Journal December, 2001, p.3

to do it²⁰. There should also be clear, comprehensive, and relevant workable laws in force which gives birth to a real authority to the body that implements them.

2.2.1. Enforcing Solid Waste Management Laws

The issue of enforcing SWM within a given municipality envisions, primarily, the existence of a SWM law which is already in force. Besides, the competent body to implement as well as the possible means of undertaking it needs to be dealt within same legislation. However, the story should not end there. A detailed and comprehensive guidelines as to how to implement the task of enforcing it need to be provided, also in a clear manner.

Enforcement, being an application of statutory means of coercion or sanction so as to ensure compliance by and through the taking of practical measures a question may arise as to which level of governmental authority should take the responsibility. In a bid to solve such dilemmatic concern, the nature of solid waste itself could be of some help. Solid waste is mainly generated due to the day to day activity of human beings residing within a given territory. And it is usually when such solid wastes are accumulated around places where people live that they become a threat to public health and the environment. This leads to the contention that solid wastes are better addressed by a body which appears to be the nearest and capable local government. As such, in most of the cases municipalities can, reasonably, be taken as the best option to deal with the issue of managing them. This, of course, holds true and convincing seen in light of the fact that municipalities are at a closer touch to the solid wastes and have relatively a better access to the requisite information concerning the wastes. Not only these, they are also in a better position to easily communicate with the people, who are the main cause of it, residing within the municipality (i.e. the regulated) and acquire adequate information in a timely manner²¹.

In line with the above, there are a lot of tasks that a municipality should undertake with a view to enforce a given SWM law. To mention some of them, designing a SWM policy, provide the necessary resources (including equipment, fund, skilled manpower, etc), timely collecting, segregating, storing, transporting, treating and disposal of the solid waste. In addition, it has to

²⁰ Adegoroye Adegoke, *The Challenges of Environmental Enforcement In Africa: The Nigerian Experience*, p. 9-12.

²¹ Raymond J. Burby and Robert G. Paterson, *Improving Compliance with State Environmental Regulations*; *Journal of Policy Analysis and Management*, vol. 12, No.4 (John Wiley and Song, 1993), P.755

consistently regulate and monitor the various entities related to the task of SWM within the municipality so as to ensure the proper implementation as well as their compliance, of the laws, by exerting sufficient and the appropriate effort for the realization of an effective enforcement, *inter alia*, through coordination with other relevant entities including the central government and other institutions²².

Moreover, for the prevalence of sound and efficient enforcement of SWM within municipalities, the formulations of a valid SWM plan, along with the adoption of sufficient specific regulations, is said to be indispensable²³. These, in fact, provide the chance for an easy and facilitated enforcement of the framework legislation thereby creating a fertile ground for the relevant body within the municipality as it will be enabled to discharge its duties properly in a sustainable way.

2.2.2. Approaches To Enforcing Solid Waste Management Laws

Basically, there are three major approaches to be employed in connection to the enforcement of SWM laws, which can serve the purpose of facilitating particularly the business of managing the solid wastes, within a municipality. These are administrative, civil and criminal approaches²⁴. Thus, states are at liberty to choose and apply either of these approaches so as to enforce their respective SWM legislations. And, once states pick and adopt a particular environmental enforcement approach then it follows that the state will formulate its environmental policies in conformity to the already chosen approach, notwithstanding that they may appear to employ them alternatively or cumulatively.²⁵

Each of these three different enforcement approaches exhibit their own peculiar features. States usually adopt any one of them by taking into account the prevailing circumstance within their territory. These include, among other things, the magnitude of the problem existing as well as the behavior and tendency of the population towards observing environmental laws. However, it

²² note 11 above, at 2

²³ Victoria Dezs, *Developing a Waste Management Plan: A Case Study of Hajdu-Bihar County In Hungary*, February, 2001, P. 9-15

²⁴ Anna Rita Germani, *The Environmental Enforcement of the Civil and the Common Law System: A Case On the Economic Effects of Legal Institutions*; Institute of Economics and Finance, Department of Turidical Sciences Law School, University of Rome "La Sapienza", Quader No 22/2007, P.3

²⁵ Id, at 10

should be underlined, at this juncture, that all enforcement approaches share a common objective of maximizing compliance and minimizing threats to public health and the environment²⁶.

Criminal enforcement of environmental laws approach presupposes the existence of environmental provisions forming part of a state's criminal law as well as the establishment of appropriate institutions (like the police, public prosecution and courts) for accomplishing it. And, for the effective accomplishment of criminal enforcement of environmental legislations, it is said that there should be a sound and integrated cooperation among these three major organs being dictated solely, of course, by the criminal policy of the state concerned²⁷. This approach, basically, involves three major and distinct enforcement activities namely; detection, prosecution and punishment. As such, it is through the carrying out of these activities that this particular enforcement approach intends to achieve the compliance of the subjects of environmental laws. The types of sanctions (punishment) to be awarded also may include the imposition of fines, imprisonment or the combination of these two. Criminal enforcement of environmental legislations are, generally, preferred where there is high prevalence rate of violation or less cooperation and acceptance to environmental legislations as well as to public authority²⁸.

In case of administrative enforcement of environmental laws approach the main actors appear to be state environmental protection agencies. And, the task of enforcing environmental laws is normally done through the application of various techniques and strategies by the concerned agency. Some of them include; establishing a system whereby public awareness in relation to the protection of environment increases, designing a system on which both social and normative commitment can be achieved on the part of the public²⁹, and more importantly setting various

²⁶ note 19 above, at 3

²⁷ Van zebe Gisele, *Enforcement of Environmental Legislation Under Criminal Law by the Public Prosecution Department In the Netherlands*, in "Third International Conference on Environmental Enforcement", P. 451

²⁸ note 24 above, at 18

²⁹ See in, *Improving Compliance with State Environmental regulations*, Raymond J. Burby and Robert G. Paterson, p.756, among others, social commitment is said to be achieved through the provision of both tangible (remuneration) as well as intangible (e.g. Public awards) incentive for compliance. The tangible incentive to be provided may include the abatement of tax, sharing the costs of compliance etc. Whereas, the provision of intangible incentive denotes the provision of "public awards" which helps for the creation of a positive kind of relationship as between the agency and the subjects of the law which, in turn, enhances the latter's good will within the state, with respect to the protection of the environment. On the other hand, normative commitment of the regulated is said to be achieved through the endeavor of a given environmental administrative agency so as to inculcate an internal value and conviction upon the subjects of the law by and through the employment of

administrative penalties, to be imposed on those who violate environmental laws, and imposing same³⁰. As such, it can be easily appreciated that this approach relies heavily on the relative willingness of the public to accept and respect environmental legislations as well as the mandate of relevant administrative agency. It is only as a last resort or after other preliminary activities are proved to be futile that penalty is used as a means to enforcing SWM laws.

On the other hand, what is known as civil judicial enforcement approach refers to the situation whereby different entities, within a state, are entitled to bring an action before a court of law against bodies who violate environmental laws, all with a view to stop or reduce threats to the natural environment. Civil enforcement approach being, relatively, a flexible mode of obtaining compliance to environmental legislations is, among others, geared towards achieving environmental redress³¹. In other words, the use of this particular approach will primarily have the effect of reducing or avoiding an environmental threat (danger) thereby enabling the plaintiff enjoy a safer or protected environment. In doing so, the approach provides ample opportunity for the prevalence of judicial enforcement of environmental laws³² thereby laying a fertile ground for the prevalence and emergence of environmental justice, (especially, for non-government entities) which is considered as one major pillar of democracy as well as good governance. A legal action seeking judicial remedy can be brought, in fact, from two distinct sources. Firstly, the government may institute an action, through its relevant environmental agencies. Secondly, private suit may also be instituted by entities, other than the government, which include; individuals and nongovernmental organizations³³. In connection to this, however, it should be emphasized that in the latter case the remedy to be obtained shall usually be earmarked for upgrading the quality of the environment, of course, in a manner that could (would) benefit the private entity bringing the action³⁴.

different awareness raising programs so that the public at large shares the ultimate goal and objective of the laws and be a law-abided citizen.

³⁰ note 19 above, at 2

³¹ *ibid*

³² Robinson , *Giving Force to Environmental Laws: Court Innovations Around the World*, March, 12, 2011, P.1

³³ John Scalia, *Federal Enforcement of Environmental Laws*, 1997 Special Report of Bureau of Justice Statistics; US Department of Justice: Office of Justice Program, November, 1999, P.2

³⁴ Mark A. Cohen, *Monitoring and Enforcement of Environmental Policy*, 1998, P.45

2.2.3. Organs Responsible For Enforcing Solid Waste Management Laws

The enforcement of SWM laws, basically, marks the taking of certain valid and tangible measures, by an identifiable entity, which is geared towards the application of the rules and regulations pertaining to same. If SWM laws are to be enforced effectively, it seems natural that there exist some organs, either governmental, nongovernmental or the combination of these two, with a legal authority to deal with same.³⁵

Usually states tend to provide for the establishment of various kinds of institutions to be in charge of the enforcement of environmental laws along with enacting a specific environmental legislation. In relation to the enforcement of SWM, in particular, it can be contended that the organs to be mandated may vary depending on the enforcement approaches which the state sticks to, i.e., criminal, civil or administrative³⁶. As such, different entities may appear to be responsible in connection to the enforcement of SWM laws, which among others include; central government organs, local governments (municipalities) along with their administrative agencies related to the protection of the environment, the police, public prosecution offices, courts, the media, as well as the public at large which mainly comprises individuals, civil societies as well as other nongovernmental stakeholders may have certain role to play. It should, however, be clear at this juncture that the level as well as feature of responsibility that these various bodies shoulder in relation to enforcing SWM laws could be different owing to their nature.

A. The Role of Central Governments

A real commitment towards the enforcement of solid waste management within a given state may or may not stem from the role to be played by the central government. This, in fact, holds true and logical as central governments are in a position both, to adopt the underlying environmental policy of the country as well as enact relevant legislations in connection to solid waste management. By virtue of this inherent mandate, they are expected to come up with a sound and workable environmental policy, provide detailed and specific rules and regulations

³⁵ note 24 above, at 14-18

³⁶ *ibid*

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Andargachew W.

June 2011.

Abstract

This research is, basically, set out to assess the enforcement level of solid waste management laws in the city of Addis Ababa. In line with this, review of the existing legislations enacted both, at the level of the FDRE Government as well as the Addis Ababa Municipality is made. In order to achieve this principal objective, important data (information) have been collected and used from the relevant institutions which are engaged in the task of enforcing solid waste management laws. Besides, the opinion and attitude of residents of Addis Ababa as well as professionals working within environmental administrative agencies as well as competent executive and judicial institutions regarding the subject matter under study has been gathered by way of questionnaire and interviews. Moreover, empirical data are used with a view to evaluate the existing practice, in connection to the enforcement of solid waste management legislations, in the City of Addis Ababa.

The research reveals that there exist certain improvements in terms of implementing some of the legal provisions embodied within the existing laws pertaining to solid waste management in the city of Addis Ababa, though there exist significant gaps and deficiencies. However, it is generally found out in the research that the prevailing level of enforcement in the city of Addis Ababa can only be said to be found at its infant stage owing to the existence of certain compelling factors. Some of the reasons that hindered the prevalence of a sound and effective solid waste management, among others, include: the poor awareness level of the public, the meager allocation of resources, the absence of a reliable and consistent monitoring and controlling mechanism and the lack of an integrated solid waste management system. And finally, with a view to avert the existing problems and enhance the enforcement of solid waste management legislations in the City, the research, has attempted to forward certain points of recommendation.

Key terms: Solid Wastes, Solid Waste Management, Enforcement of Solid Waste Management Legislations, Addis Ababa

Abbreviations

FDRE – Federal Democratic Republic of Ethiopia

AU – African Union

SWM – Solid Waste Management

MSWM – Municipal Solid Waste Management

NGOs – Non Governmental Organizations

UNs – United Nations

ENGOs – Environmental Non Governmental Organizations

UNEP – United Nations Environmental Program

OECD – organization for Economic Cooperation and Development

UNCED – United Nations Conference on Environment and Development

EC – European Community

IMSWM – Integrated Municipal Solid Waste Management

EPA – Environmental Protection Authority

AAEPA – The Addis Ababa City Government Environmental Protection Authority

EPE – Environmental Policy of Ethiopia

ISWM – Integrated Solid Waste Management

CHAPTER ONE

INTRODUCTION

1. Background

Environment, being the totality of things making up the necessary components upon which human beings rely for living, can be affected both by the acts of human beings or others. All living thing and human beings in particular, need a favorable environment for their existence as a result of which there arises the need for the protection of the environment from being damaged, among others, by hazardous wastes that can potentially affect the continuity of life.

Hence, in order to avert the possible danger that could arise due to the hazardous waste materials to the environment, certain mechanisms of managing wastes should be put in place with a view to dispose the wastes in a manner they cannot inflict harm to human beings.

Waste management, basically, refers to the act of disposing the various wastes that could otherwise result in the degradation of the environment. Put in other words, it is the systematic avoidance of wastes so that they do not adversely affect the environment to the detriment of the sustainability of life.

In general, effective waste management schemes involve a structurally organized effort by a given government-organ empowered to do so by law. As such, it relates to an undertaking whereby a significant amount of resource is devoted with a view to curtail the possible hazardous impacts of wastes over the inhabitants of a given environment. However, this does not mean, at any rate, to exclude the possible involvement of a non-governmental organization (NGO) working towards achieving a similar goal.

Addis Ababa, being a city where a relatively big size of population exists compared to other towns and cities in the country, the issue of municipal waste management system cannot be, by any means and standard, a concern of little importance. Owing to the large size and heterogeneity of population as well as the existence of relatively a complex social structure along

with the high degree of economic interactions, currently an enormously large amount of waste is being released in Addis Ababa. Therefore, putting in place an efficient waste management schemes in cities like Addis Ababa, simply, appears to be essential so as to maintain the environment clean and healthy to the inhabitants, and thereby guaranteeing their environmental rights to clean and healthy environment.

Wastes, in fact, can be released in various forms as having solid, liquid or gaseous nature. However, With respect to solid wastes, in particular, presently it seems almost impossible to talk about the city of Addis Ababa without mentioning the piles of solid wastes it exhibits around every corner of the metropolis. This, among others, calls for the prevalence of a sound and effective solid waste management systems. This, in turn, requires the existence of a workable legal as well as institutional framework within the Municipality. And, for this to happen, among other things, the need to promulgate relevant legislations that could guarantee the right to clean and healthy environment by and through the employment of efficient solid waste management systems should not be underestimated. In connection with this, government organs which are mandated with the power and responsibility of enforcing laws related to the protection of the environment in general and the implementation of solid waste management schemes in particular, are expected to manifest the required commitment.

In a bid to fulfill the above tasks, the Ethiopian Government has extended due concern for the realization of environmental rights. There are a number of legislations which are currently at work, in one way or another, aimed at guaranteeing the right to clean and healthy environment. What is more, the FDRE Constitution has laid the foundation for the same rights thereby making them an integral part of the basic and fundamental rights of human beings under the Constitution.

2. Statement of the problem

Though named as the capital city of the Federal Government of Ethiopia and is the seat of many international organizations including the African Union (AU), Addis Ababa is far from doing well with regard to the management of its solid wastes that are being generated from different sources. Consequently, it has become common to come across a pile of solid wastes of various types around, including the major streets of the city which ,in turn, adversely affects the city's environment as a whole thereby endangering the health of its inhabitants.

Despite the attempts that were made by the different administrative agents of the government and other organized groups with a view to properly dispose solid wastes to the extent possible, a satisfactory result does not seem to be achieved yet.

As opposed to these, it can also be seen that environmental issues as a whole are taken as major concerns in the Ethiopian context. Environmental rights are provided as one of the fundamental rights in the FDRE Constitution. The Constitution has gone to the extent of providing that “All persons have the right to clean and healthy environment under its article 44/1/. Moreover, it stipulates “all persons shall enjoy the right to commensurate monetary or alternative means of compensation provided that they are improperly displaced or when their livelihood is adversely affected by the state’s programs”. From these, it can be boldly inferred that environmental issues have been granted a special place in Ethiopia. Accordingly, the FDRE Government has managed to come up with various legislations that can foster environmental protection, in general, and solid waste management, in particular, within the state. Among others, the promulgation of a law regarding the management of solid wastes (proclamation no. 513/2007) with its detailed rules and procedures through which the environment can be protected from the effects of hazardous wastes can be cited as an example.

However, the problems of environmental protection do not seem to relate, wholly, to the existence of detailed rules, but also to the enforcement capability of the various administrative organs that are entrusted to interpret and implement the existing laws with a view to practically apply them.

Generally, there is an observable difficulty in placing sound and practical measures towards the proper enforcement of environmental legislations. In addition, the issues of raising the awareness of residents in relation to their rights and duties with regard to the protection of the environment as well as the mechanisms of solid waste management do not seem to have been addressed adequately.

Thus, it can be boldly said that the appropriate organs responsible for the protection of the environment within the state as a whole and the City Government of Addis Ababa in particular, seem to have failed to discharge their responsibilities ,especially, in putting into effect a suitable mechanism to aid the promotion of the quality of the city’s environment, which includes, among

others, the failure to introduce an effective and efficient enforcement programs and schemes in relation to solid waste management.

3. Research Questions

The underlying reason behind conducting this research relates to the concern to explore the main factors contributing to the inefficient enforcement of solid waste management laws which exists in Addis Ababa. **The central question of this research is therefore:**

- ❖ What are the main problems hindering the efficient and effective enforcement of solid waste management in the city of Addis Ababa? Does the problem relate to the inadequacy of the existing legal framework, poor institutional and administrative capacity of the municipality, or lack of commitment on the part of the bodies endowed with putting it in to effect?

The research also raises the following **sub-questions** with a view to answering them all in due course of accomplishing the research. These include,

- What are the main types of solid waste management systems being applied in the metropolis?
- What are the major impediments with regard to solid waste management in the city?
- To what degree are the residents aware of the need to properly enforce solid waste management related legislations?
- What has been done by the government to raise the awareness of same?
- Which are the major organs entrusted with the mandate to enforce solid waste management laws within the municipality? What are their specific powers and duties? Are they well equipped and adequately staffed so that they can discharge their responsibility properly?
- What do the practice of enforcing solid waste management in Addis Ababa look like? Is it consistent with the letter and spirit of the existing laws? What about its compatibility with the requirements set by the international standard for the prevalence of a clean and healthy environment?

4. Objective of the Study

A) General objective:

This research is set out primarily to investigate the main problems in relation to the enforcement of solid waste management laws in the city of Addis Ababa. To this end, the research tries to explore, both the existing legal regime as well as the practice relating to the enforcement of solid waste management legislations, within the municipality.

B) Specific Objectives:

On the basis of the above mentioned general objective, the research has upheld the following specific objectives. These, among others, include to:

- Understand the general institutional arrangement of the Addis Ababa Municipality in connection to the enforcement of solid waste management laws.
- Evaluate the sufficiency of the legal framework existing in Ethiopia in relation to the management of solid wastes.
- Determine the efficiency of the Addis Ababa Municipality in the enforcement of solid waste management legislations.
- Identify the major challenges in enforcing solid waste laws in the city.
- List potential points of recommendations so as to avert existing problems regarding the enforcement of SWM.

5. Research Methodology

Generally, the mixed research method has been used in carrying out this research. Both qualitative and quantitative data are gathered, mainly, through the use of data available within certain relevant governmental institutions, employing interviews, questionnaire, as well as direct observations on the residents of the City of Addis Ababa.

Information has been gathered through interviewing relevant and concerned officials such as: judges, police officers, wereda social court registrars, workers at Federal Environmental Protection Authority, at the Addis Ababa City Government Environmental Protection Authority, as well as at the Solid Waste Management Agency.

The research respondents were purposely selected on the basis of the length of time each lived in Addis Ababa City so that they can give ample information as regards the subject matter under study. Besides, so as to make the data gathered representative, informants from all the ten sub-cities were communicated. To this effect, questionnaires have been distributed and filled by 78 residents living within the 10 sub cities in Addis Ababa City, 48 of which representing various professionals that are mandated with the task of enforcing SWM laws. By doing so, *inter alia*, information relating to: the awareness level of the people about SWM laws and penalty they entail, their role in properly disposing solid wastes, the general practice of enforcement of the existing SWM laws, concerning the use of rivers as solid waste disposal site as well as regarding the main obstacles in realizing a sound SWM in the city have been obtained.

Court cases relating to the enforcement of solid waste management laws with a competent jurisdiction have been analyzed. To this effect, real cases decided by wereda social courts, with a view to enforcing solid waste management laws, have been discussed.

Regarding the number of functioning communal dumpsters, dust bins and waste tracks that are being used to collect solid wastes in the City of Addis Ababa, data available at the Addis Ababa City Government Solid Waste Management Agency has been referred. Among others, information relating to the role of the public at large and their level of participation in enforcing laws pertaining to solid waste management is gathered.

And, finally with a view to attain triangulation of data obtained through the above tools of collecting information, the researcher has employed direct observation as an additional tool. As such, general information with respect to the actual practice of residents in connection to the behavior they manifest towards the overall activity of enforcing solid waste management legislations have been observed.

6. Significance of the Study

This research will benefit the Addis Ababa City Government, in particular, and the FDRE Government with respect to enforcing solid waste management laws in an efficient and effective manner. Moreover, the responsible government organs entrusted with the protection of the environment, through the employment of different mechanisms, can make substantial advantage out of this study as it will attempt to clearly disclose the underlying factors impeding an effective

enforcement of solid waste management laws in the City along with providing potential solutions.

As such, it is believed to contribute immensely for those responsible government organs as they will be provided with ample opportunities to work on the main problems, possibly, through the enactment of new legislations, capacity building, as well as realizing firmly the proper and full enforcement of the rules thereby enhancing the existing level of enforcement.

Besides, the research is believed to help in raising the awareness of the inhabitants of Addis Ababa towards the nature and impacts of solid wastes and the manner of harmlessly disposing them, thereby making them play a significant role in the endeavor towards the protection of the city's environment. This, in turn, facilitates the enforcement of the resident's right to clean and healthy environment thereby promoting the quality and standard of the city's environment.

7. Scope of the Study

As a main focus of study, the research has the intention and purpose of evaluating the level and status of the enforcement of solid waste management laws in the city of Addis Ababa, along with investigating in to the major problems in connection to same. As such, the present study is not concerned with the management of liquid and gaseous wastes. Besides, the research will be limited to the examination of the subject matter under study with respect to only the city of Addis Ababa.

8. Organization of the paper

As mentioned above, this paper is set out to evaluate the enforcement of solid waste management legislations, particularly in the city of Addis Ababa. To achieve this objective, it has been divided into four distinct chapters.

The first chapter is, basically, devoted to introduce readers with the background, statement of the problem, objective, significance and limitation of the research.

The second chapter, generally, provides the theoretical conceptions pertaining to the management of solid wastes. In connection to this, the meaning, mechanism as well as the bodies that can be entrusted with the mandate to deal with solid waste management tasks is discussed.

Chapter three, basically, investigates in to the existing legal regime addressing the issues of solid wastes and their management. Accordingly, different laws, policies and guidelines in relation to same have been explored, all with a view to assess their level of enforcement in light of the existing practice. And in chapter four, attempt has been made to practically evaluate the actual enforcement level of the laws that are in force in relation to solid waste management. Finally, the conclusion and recommendation are provided forming the last part of the paper.

Chapter Two

Enforcement of Solid Waste Management Laws: General Overview

Law in general and, environmental laws in particular, is promulgated with a view to enforcing them so as to meet the objectives they are meant for. Environmental laws, among others, have the purpose of enabling citizens enjoy the basic right to clean and healthy environment and, failure to ensure the enforcement of laws enacted in relation to the environment would result in the denial of this fundamental right of citizens. In the same token, solid waste management laws to be enacted by states, usually, have the ultimate goal of providing citizens with a safe, healthy and workable environment within a state which is conducive for living to human beings.

In the forthcoming part basic concepts like solid waste, solid waste management as well as enforcement of solid waste management laws will be discussed, all with a view to introduce and familiarize readers with subsequent discussions in the paper. Besides, discussions in relation to the various techniques and approaches towards enforcing solid waste management laws, along with the possible roles to be played by different entities within a municipality, will be presented so as to lay a fertile ground for readers to fully appreciate the discussions in this paper.

2.1. Solid Waste Management

Waste is generally understood to mean something which is useless and unnecessary. Things which are identifiable as obsolete with little or no importance to those who possesses them qualify as waste¹. As such, they denote things which are disposed of. Depending on their nature and sources, wastes can be broadly classified in to three categories namely: solid wastes, liquid wastes and gaseous wastes, each group having its own distinct characteristic features. Despite this all forms of wastes pose a considerable danger on the environment though with varying degree, hence calling for a need to manage them by employing the appropriate techniques.

¹ Ing Klaus fischer (Dr.), *Solid Waste Management*, Universität Stuttgart- Institute Fursiedlungs Wasserbour, Wassergute-und Abfall Writschaft (ISWA), 2006, p.5

that can facilitate the protection of the environment and also establish the legal ground for the establishment of various administrative agencies which shall work for the good of the environment through bestowing the required authority to enforce the laws in relation to same³⁷. But the role to be played by central governments does not seem to end here. In addition to laying a plausible environmental policy and adopting a comprehensive legal and strategic framework, they are expected to deal with the task of promoting effective enforcement of environmental laws, building as well as strengthening institutional capacity of relevant environment agencies and also enhancing the already existing legal and regulatory environmental framework³⁸. As such, central governments appear to be instrumental in shouldering the fundamental responsibility of creating the general legal framework and adopting a policy on the basis of which the whole task of environmental enforcement can be done. Besides, they are responsible to devise mechanisms through which various entities can be coordinated and exert their efforts towards the achievement of the goal of environmental protection. Generally, central governments being placed at the apex in the ladder of state power, they bear a vast responsibility in ensuring a safe, healthy, productive and aesthetically and culturally comfortable as well as pleasing environment towards their subjects, i.e., the people they govern.

B. The role of Municipalities

It is generally contended that municipalities exhibit the most convenient forum for a successful enforcement of environmental legislations. This is mainly due to its proximity to the environment as well as the people causing the wastes, which enables them to acquire sufficient knowledge of it so as to properly and effectively deal with³⁹. And, the issue of enforcing SWM laws are said to be better addressed through the operation of the various government apparatus within a municipality owing to their peculiar features. As such, municipalities are expected to live up to the responsibility of enforcing SWM laws by and through mobilizing their different administrative agencies along with formulating essential strategic frameworks to accomplish it. Besides, municipalities may also enter into an agreement with other nongovernmental entities,

³⁷ note 33 above, at 3

³⁸ *Strengthening Environmental Law Compliance and Enforcement In Indonesia: Towards Improved Environmental Stringency and Environmental Performance*, IDLO- International Development Law Organization, Issue 6/2006, 19- December 10, 2005, p.6

³⁹ note 27 above, at 452

including the private sectors providing services, by way of out sourcing, with a view to address the issue of SWM, provided that they are authorized by law⁴⁰ to do so.

Municipalities play a significant role in connection to the enforcement of SWM owing to the fact that they are in a close touch to the regulated (people) which, in turn, provides them ample opportunity to acquire easily all the needed information concerning solid wastes. Besides, their closeness give them the ability to devise and put in to effect suitable enforcement mechanisms on the basis of the type and nature of solid wastes as well as the typical behavior (reaction) of the population towards an existing environmental legislation⁴¹. On the basis of this, municipalities will be able to adopt strategies that foster the realization of effective enforcement of SWM laws. These include, among others, the provision of awareness raising programs, relevant information as well as formulation of a system for a sustained public participation, all with a view to upgrade the level of enforcement of SWM laws.

The relevant organs to be mandated to enforce SWM legislations vary depending on the type of enforcement approach that a given state adopts. If the state opted, for instance, for criminal enforcement approach, there shall be organs like the police, public prosecution office and courts in addition to other administrative agencies. On the other hand, a state which employs administrative enforcement approach will normally have different environmental agencies to be established within the organizational structure of the municipality or local government. As opposed to these, when a state choose to have a civil enforcement of environmental laws along with either of the two or both approaches mentioned above, organs responsible for the enforcement of environmental legislations might possibly include, *inter alia*, courts, private organizations and civic societies as well as private citizens, in addition to various environmental agencies within the government. It is, however, important to bear in mind that there exist some other organs which can also play considerable roles in the endeavor to enforce SWM laws within a municipality including, the media, NGOs etc.

⁴⁰ Solid Waste Management: *Mediterranean Environmental Technical Assistance Program*, Morocco (METAP), p.2

⁴¹ note 21 above, at 755

C. The Role of the public

Regardless of the fact that a state adopted any of the environmental enforcement approaches, the role to be played by the public at large is indispensable. Solid wastes are said to be the outcome of the everyday activities of human beings. And, it can be strongly argued, on the other hand, that human beings appear as the principal beneficiary, if not the only, from the protection of the environment. As such, it can be safely and validly said that human beings, in general, and the public (population) of a given state, in particular, pertains to be placed at the center of every undertaking related to the protection of the environment.

Speaking of the role of the “public”, it is generally, meant to refer and address to the special contribution that could be derived from individuals, civic societies, private organizations, NGOs, and other stakeholders. The public can contribute to the enforcement of SWM legislations, of course, in two ways: acting as a law-abided citizen (body) by observing all the relevant environmental legislations and ensuring the observance of these environmental laws by others. The latter one can be expressed through taking certain measures towards protecting the environment as well as condemning and disclosing violators of environmental regulations to the relevant governmental authorities. In addition to this, individual citizens as an integral part of the public may contribute by bringing private actions,⁴² provided that they are entitled by law, before court of law, with a view to promoting the protection of the environment.

On the other hand, civic societies, environmental non-governmental organizations (ENGOS), as well as other private organizations provide an enormous contribution towards the enforcement of SWM laws⁴³. Among other things, they provide and facilitate awareness raising programs on environmental protection, bring environmental suit against violators (in most cases through public interest groups), provide their expertise in relation to the preparation of environmental policies, strategies, laws as well as on the mechanism of enforcement, provide also both financial and material assistances towards especially to those organ(s) responsible for enforcing SWM laws, in particular, and environmental legislations, in general.

⁴² Michale E.Wall and Alex L.Wang, *Environmental suit litigation in the united states*, P.1

⁴³ note 38 above, at 9

As such, it can be generally said that the effective and efficient enforcement of SWM rules and regulations is heavily linked with the level of acceptance as well as support of the public⁴⁴. Hence, it can be validly contended that attaining a considerable public support concerning a given environmental law, related policy and strategy appears to be essential in the effort to bring about a sound enforcement of SWM legislations.

⁴⁴ note 21 above, at 755

Chapter Three

Legal Regimes Governing Solid Waste Management

In order to realize the protection of the environment both, at the national and international arena, states have exerted their efforts, in different times. Of course, the need to protect the environment is highly related to the desire to sustain the life of human beings. One of the most important and crucial step that was taken so far, with a view to realize a safe and healthy environment, include the formulation of a rule that must be observed by individuals within a state (community) . In line with this, states have also managed to come up with a considerable set of substantive as well as procedural rules which are meant to be applicable on the international level, as between and among themselves.

Hence, it is observed that there exist certain legal frameworks, both at the national and international levels, which are aimed at promoting the protection of the environment. Environmental laws attempt to provide the positive and negative human behaviors⁴⁵ in relation to the safety of the environment. However, the fact that there exists a number of environmental legislation across the globe does not guarantee their successful implementation. But one can conclude, nevertheless, that all environmental legislations are geared towards the realization of a healthy and comfortable living situation for human beings. If environmental legislations are to be complied with, therefore, certain mechanism of monitoring and surveillance also need to be in place. Besides, a specified body must be endowed with the power to deal with the business of enforcing these environmental rules and principles.

Let alone rules relating to solid waste management, dealing with environmental issues in general are said to be a recent phenomenon. However, this is to mean that it is not very far that laws in relation to environmental matters have begun to achieve a general acceptance, in terms of attaining a status of written (codified) rules of law.

Though they appear to be at their infant stage in comparison to other areas of law, environmental rules and principles have exhibited a rapid pace of development owing to the fact that they appeared as one of the most crucial concerns of human beings. As such, a significant number of

⁴⁵ Winfried Lang, *UN Principles and International Environmental Law*, 1999, p. 159

legislations have emerged within a short period of time, both at the national and international levels, thereby dictating the human behavior towards its protection.

The subsequent sections are devoted to deal with the prevailing legal regimes in relation to wastes in general and the issue of solid waste management, in particular. To this end, exploration of the existing legal rules and principles both at the level of domestic jurisdictions as well as at the international arena will be reviewed.

3.1. The International Vs the National Legal Framework: A Brief Overview

In fact, the ultimate objective of having both, an international as well as national legal rules and principles pertains to be the maintenance of the well being of human beings. Nevertheless, it should be emphasized that both of them have their own distinct system of dealing with the matter, i.e. the protection of environment for the safety of human beings. Among others, the procedure each follow, the subjects each intend to regulate, the mechanism they employ to enforce the rules and the bodies entrusted with the mandate to ensure their compliance as well as the nature of some of the rules and principles and the remedies available in time of violation appear to be different. On the other hand, it can be observed that there exist a tremendous interdependence and relationship among the two in some aspects. This is, of course, due to two main reasons. Firstly, as mentioned above, both the international and the national environmental regimes have a common goal of promoting the safety of human beings through the protection of the environment. Secondly, it is individual sovereign states which principally constitutes the decision making body on the international plane thereby causing the emergence of a variety of environmental rules and principles that needs to be made applicable by and through the respective national jurisdiction.⁴⁶

3.1.1. The International Legal Framework

Generally, a serious concern for the protection of environmental issues on the part of the international community began to exist since the early years of 1970's along with the

⁴⁶ Philippe Sands , *Principles of International Environmental Law*, (2nd ed), (New York: Cambridge University Press, 2003), P.124-174

establishment of the United Nations Environment Program (UNEP) in 1972⁴⁷. And, following its establishment, the UNEP is said to facilitate the coming in to picture of a considerable number of international environmental rules, policies and conventions, all with a view to ensuring the protection of the environment and its sustainability⁴⁸.

The international protection of the environment is necessitated to be regulated through the formulation of a legal framework, among other things, to limit and suppress the unwise and irresponsible economic undertakings that have an adverse impact on the international environment by the acts of varying entities within a state⁴⁹. In a bid to avert the potential danger to be caused by same, therefore, the international communities of states have managed to resort to creating an international environmental legal framework which can serve as a guideline to their multi-faceted economic activities aimed at fostering their development.

Consequently, there exist presently more than seven hundred multilateral environmental conventions and agreements which are aimed at promoting the protection of the environment⁵⁰. This demonstrates, of course, the paramount concern attached to the possible problems that will be created due to the absence of proper protection of the environment. By doing this, the international community of states have responded positively by devising a variety of general legal frameworks geared towards the protection of the environment thereby abolishing the so called “non-military source of instability”⁵¹ to the world. Through the formulation of so many and various international conventions dealing with the protection of the environment, the international legal system has opened the door for the creation of a number of important substantive as well as procedural environmental rules and principles. Some of these major substantive rules include: duty to avoid harm, responsibility for damage (both civil and criminal), duty to compensate, and procedural rules which include: duty to cooperate, duty to adopt

⁴⁷ Tadanori Inomata and Enrique Roman-moray, *Environmental Profile of the United Nations System Organization: Review of Their In House Environmental Management Policies and Practices* (JIU/Rep/2010/1) Joint inspection unit, Geneva, 2010 United Nations, p.3

⁴⁸ Ibid

⁴⁹ note 46 above, P.4

⁵⁰ Susanne Wymann, Von Dach Rosmarie, and Ruth Wenger (eds), *Global Conventions and Environmental Governance*-, Info Resource Focus-No. 3/05, 2005, P.3

⁵¹ The United Nations, Security Council has emphasized the need to treat the issue of ensuring environmental compliance among member states, in January, 1992, considering the failure to do so as a serious threat to the global peace and security, and has declared that “non-compliance to environmental rules tantamount to creating a “non- military source of instability” to the world.

effective legislations, as well as monitoring compliance, conducting environmental impact assessment, and duty to provide access to judicial proceedings⁵².

In the attempt to consolidate the international legal framework for the protection of the environment both hard and soft laws have played insurmountable role⁵³. In line with this, the United Nations (UN) along its specialized institutions, as a main and viable international organization has contributed a lot in that is managed to adequately organize and coordinate the various efforts of the international community of states at different stages by and through creating the opportunity to come up with certain important international legal instruments concerning the protection of the environment⁵⁴. Other specialized institutions that work in relation to the protection of the environment on the international plane include: UNEP, Conference on Trade and Development (UNCTD), UN Industrial Development Organization (UNIDO), UN Development Program (UNDP), UN Food and Agriculture Organization (FAO), UN Educational, Social and Cultural Organization (UNESCO)⁵⁵. As such, due to the combined and coordinated effort of the international community it was made possible to come across various international agreements that address varying and specific international environmental issues.

However, the international legal regime dealing with the protection of the environment does not provide a sufficient and a well developed account of laws relating to the issue of waste management, in general, and solid waste management, in particular⁵⁶. A simple observation of the provisions of the existing international environmental conventions⁵⁷ will prove that the issue of managing wastes is not made the central point of discussion in the instruments. Though it can be seen that international environmental law began to deal with the regulation of wastes during early 1970, the issue of solid waste management did not seem to be the prime concern by then. The main focus of the instruments rather was on two specific areas namely: disposal and the international movement and trade in wastes. As such, addressing the issue of preventing the

⁵² note 45 above, at 159-167

⁵³ note 46 above, at 124

⁵⁴ Robert A. Wabunoha (ed), *Handbook on Environmental Law in Uganda*, vol II (2nd ed.), 2005, p.39

⁵⁵ Id, p.47

⁵⁶ note 46 above, at 675

⁵⁷ See, for instance, *The Basel Convention of 1989, The Bamako Convention of 1991, and The London Convention of 1972*

generation and management of wastes was not at the forefront⁵⁸. In other words, the principal objective and mission of those international instruments had clearly precluded issues like; reducing the generation of wastes, methods to be used for dealing with the problem of wastes (including, recycling, reuse, recovery etc), mechanisms of treating different types of wastes with varying characteristics as well as other related matters including enforcement approaches and bodies responsible for dealing with the problem of wastes. The 1972 London Convention, the 1989 Basel Convention, the 1991 Bamako Convention and the 1982 World Charter for Nature can be mentioned in this regard.

As opposed to these above mentioned instruments, however, there were some piecemeal and unconsolidated efforts, on the part of the international community of states, to address the issue of waste management. The 1976 Organization for Economic Cooperation and Development (OECD) Council Recommendations with respect to the management of wastes at the international level is a typical case in point, both in terms of being a comprehensive as well as indicative of the way to be followed in dealing with the problem⁵⁹. It had incorporated certain crucial rules and principles which appear to be pertinent to the business of handling wastes on the international plane. These include, among others, waste prevention, the promotion of recycling, ensuring access to information and also some administrative arrangements which include taking of inventories of wastes, organization of waste collection, establishment of disposal centers, promotion of research for disposal methods as well as the creation of markets for recycled products⁶⁰.

Moreover, the increasing recognition and understanding on the part of the international community of states, which was manifested largely through the emergence of various international acts, has spurred the endeavor towards the formulation of a regulatory framework for the possible adverse effects of a growing range of economic activities, which mainly includes the generation of wastes⁶¹. This, of course, was further developed during the United Nations Conference on Environment and Development (UNCED) in 1992. The Conference, among other things, is said to have played a significant role particularly in creating the chance to prioritize

⁵⁸ Maurice Sunkin, David M ONG and Robert Wight, *Source Book on Environmental Law*, (2nd ed), (Cavendish source book series, (London :Cavendish publishing limited.), 2002, p.343

⁵⁹ note 46 above, at 3

⁶⁰ Ibid

⁶¹ Ibid

among from a variety of environmental issues which are capable of being considered as a concern thereby attaching certain legal commitments upon the international community of states⁶². Accordingly, environmental issues which are said to be the concern of the international communities were divided in to two categories namely: those related to the protection of the environmental media and those related to the regulation of products of human activities⁶³. Hence, environmental issues falling in the first category pertain to relate to the protection of the atmosphere (including climate change, ozone depletion, as well as trans-boundary air pollution), land, deforestation, biological diversity, freshwater resources, oceans and seas etc⁶⁴. Whereas, in the second category the main environmental concern appears to be in relation to the product and by-products resulting from technological and industrial innovations as well as other economic activities, caused by human beings, having the effect of damaging the environment. These, basically, relate to the use and handling of biotechnology, toxic chemicals (substances), agricultural practices, hazardous wastes, solid wastes and sewage, as well as radioactive wastes⁶⁵.

However, the attempt made to address the matter at the international level during the UNCED is worth mentioning. Agenda 21, in particular, had marked somewhat a positive beginning towards addressing the issue of managing wastes, in general (including hazardous as well as other type of wastes) with a view to come up with an internationally acknowledged regulatory framework⁶⁶. More specifically, Chapter 21 of Agenda 21 had proposed for the creation of an environmentally sound management of solid wastes and sewage related issues thereby laying a fertile ground for the creation of an international legal framework⁶⁷. Among others, the proposal had the intention of addressing the problems related to the issue of solid wastes which includes: minimization of wastes, maximizing an environmentally sound waste re-uses and recycling, the promotions of an environmentally sound waste disposal and treatment as well as the extension of waste service coverage.

⁶² Ibid

⁶³ Ibid

⁶⁴ Id, at 4

⁶⁵ Ibid

⁶⁶ Id, at 705

⁶⁷ Id, at 706

Hence, though Agenda 21 envisioned for the establishment of an international and environmentally sound waste treatment and disposal standards and systems both, within developed and developing countries through the creation of an international as well as national guidelines⁶⁸, the idea has remained in vain as the proposal failed to be transformed in to a binding regulatory framework.

Therefore, it can be generally contended that there exists hardly a consolidated and comprehensive body of rules specifically dealing with the management of solid wastes in the international environmental legal system. The international environmental law regime, rather, has given due emphasis to the issue of the international movement and trade in hazardous wastes.

In connection to this, however, we can see that the European community⁶⁹ (EC) have travelled a considerable distance with respect to the formulation of a reasonably detailed environmental framework pertaining to the issue of waste management²⁴. They have managed to take a significant step in having a comprehensive set of rules and regulations in relation to handling wastes. In an effort to properly address the problem of waste, the EC have responded to the concern by creating legal frameworks emphasizing on four major areas namely: reduction of wastes, promotion of reuse and recycling of wastes, control of waste disposal mechanisms, and control of transnational movement of wastes²⁵.

3.1.2. The National Legal Framework

The fact that the ultimate purpose of protecting the environment lies in the maintenance of the well-being of human beings makes states (national jurisdictions) to appear as the main and practical actors in the endeavor to protect the environment. This, in turn, calls for the need to be engaged in the task of devising certain mechanisms so as to deal with the business of protecting the environment. With a view to properly discharging the responsibility of protecting the environment, states, among other things, are expected to come up with the relevant and

⁶⁸ Id, at 707

⁶⁹ Members of the EC, through their regional organization, have managed to own ,so to speak, a detailed and comprehensive legal framework addressing the issue of wastes. Among others, laws dealing with “wastes”, “disposal of waste oils”, “ hazardous wastes” ,” shipment of wastes” ,“sewage sludge”, “packaging of wastes”, “Landfill of waste”, see. Council Directive of 15 July 1975 (75/442/EEC), Council Directive of 12 December 1991 (91/689/EEC), Council Regulation of 1 February 1993, (EEC/259/93), European Parliament and Council Directive of 20 December 1994 (94/62/EC), Council Directive of 26 April 1999 (99/31/EC)

appropriate environmental legislations which are capable of addressing sufficiently all environmental problems existing within its territory. Besides, each nation is expected to establish all the requisite institutions rendering them all the necessary power and responsibility so as to handle and achieve the underlying objective of protecting the environment through obtaining a reasonable compliance of the subjects, with respect to whom the laws are issued.

Generally, the rationale behind the acts of states in establishing a national legal framework with regard to the protection of the environment is of twofold. The first is to achieve the purpose of maintaining the safety of its citizens. In addition to this, states have also the mission of complying with their international duties which can be expressed, inter alia, through implementing their international obligations that includes their international environmental commitments⁷⁰. As such, states in a bid to properly discharge their international obligations, they adopt their own environmental policies, strategies as well as relevant legislations in conformity to their international duties and commitments along with establishing the requisite institutional arrangements so that they succeed in discharging same.

Owing to the disparity in the scope of the problem of waste management and the nature and type of wastes needed to be managed, different states respond to the problem in various ways. Moreover, the laws to be enacted so as to address the issue of waste management in general and solid waste management, in particular, appear to be various due to both, the difference in magnitude of the problem each state wants to tackle as well as the disparity in selecting the enforcement approach and the organs to be mandated for the enforcement of the laws in place⁷¹. In connection to this, it can also be forwarded that the legal rules and principles which form the national legal framework pertaining to the issue of waste management can be found incorporated in various distinct legislations dealing with environmental issues as well as those laws addressing the issue of public safety⁷².

⁷⁰ note 46 above, at 36

⁷¹ *Developing Integrated Solid Waste Management Plan Training Manual: Assessment of Current Waste Management System and Gaps There in United Nations Environment Program*, Division of Technology Industry and Economics ; International Environmental Technology Center, vol. 2, Osaka Shiga, Japan 2009, p.13

⁷² *Id.*, at 15

3.2. Laws Governing Solid Waste Management in Ethiopia

A simple look at the FDRE Constitution reveals the fact that matters related to environmental protection are placed at a cherished corner among the state programs.⁷³ Environmental rights of citizens in Ethiopia have been granted constitutional foundation⁷⁴. This, of course, calls for the need to put in to effect, on the part of the government, a sound as well as comprehensive environmental legal framework, with a view to fully enforce them.

Solid waste management legislations, in fact, represent only a single aspect of the overall endeavor to be made by a state with respect to the protection of the environment. However, a state may not have a full-fledged and comprehensive environmental program without incorporating a valid as well as workable waste management laws in its environmental legal framework. Hence, laws governing the handling of wastes in general and rules pertaining to the management of solid wastes in particular appear to be indispensable.

3.2.1. Legislations at the Federal Level

Owing to the federal arrangement and structure of the state, laws to be enacted within the country may possess at least two features: federal or Regional. The present work has been limited to focus on the issue of solid waste management in the city of Addis Ababa, which is designated to serve as the capital of the federal state by the FDRE Constitution⁷⁵. Besides, being accountable to the federal government the city of Addis Ababa is made to enjoy a self-administration and autonomous status⁷⁶.

Hence, laws dealing with the issue of solid waste management as well as other relevant instruments and documents which relate to the subject under study, adopted both at the federal as well as municipality of Addis Ababa City, will be dealt with.

⁷³ See, the whole of chapter three of the *Constitution of the Federal Democratic Republic of Ethiopia*, which provides reasonably a detailed enumeration of fundamental rights and freedoms bestowed upon the citizens of the country.

⁷⁴ See, the FDRE Constitution, article 44

⁷⁵ Id, article 49(1)

⁷⁶ Id, article 49(2), (3), and (4)

3.2.1.1. Solid Waste Management Proclamation No. 513/2007

Being one the most pertinent and basic legislation, in terms of addressing directly the issues related to the problem of solid wastes, Solid Waste Management Proclamation (herein after, proclamation no. 513/2007) was enacted in the year 2007. The Proclamation in its preamble has emphasized the importance of public participation to be attained at the lower administrative level within the existing urban administration arrangement. And, the law has in view the aim of achieving a safe and healthy environment through the prevention of the possible adverse effects of solid wastes along with enhancing the importance that can be drawn from them. As such, it can be observed that the proclamation has basically the objective of fulfilling two main objectives namely: averting the possible danger arising from the handling of solid wastes and the creation as well as strengthening of the social and economic benefits accruing from solid wastes⁷⁷.

A. Types of Solid Wastes

Proclamation no. 513/2007 has indentified six main types of solid wastes that need to be managed along with the manner of collecting and disposing them⁷⁸. These include: glass containers and tin cans, plastic bags, used tires, food related solid wastes, household solid wastes, and construction debris and demolition wastes.

In addition to providing the types of solid wastes, part three of the proclamation has stipulated the duties attached to those who caused the generation of solid wastes thereby upholding the well entrenched environmental law principle of “polluter-pays. In line with this, entities engaged in the production or importation of glass containers, tin cans as well as plastic bags which are non-biodegradable are required to strictly observe the rules concerning the use and handling of the solid wastes to be created in connection to same⁷⁹. In the same token, producers of food related solid wastes are duty bound to gather and dispose them in a manner which is safe and healthy to the surrounding environment. Besides, they are expected to come up with a system of solid waste

⁷⁷ Solid Waste Management Proclamation No. 513/2007, *Federal Negarit Gazeta*, 13th Year, No.13, Addis Ababa, February 2007, article 3.

⁷⁸ *Id*, see part three, articles 7, 8, 9, 10, 11 and 12.

⁷⁹ *Id*, see article 7(1), (2), and article 8

management which is consistent with a directive to be issued for this purpose by the relevant environmental authority⁸⁰.

Apart from this, the law imposes the duty of indentifying solid wastes which are recyclable from the non-recyclable ones on the head of households with respect to the solid wastes he/she is responsible for production in disposing them⁸¹. And in connection to this, the law has prohibited the discharge (release) of litter in any form on “streets, waterways, parks, bus-stops, train stations, sport fields, water bodies in urban areas or in other public areas”, provided that litter bins are prepared and are available for this purpose⁸².

In an effort to address the problem of solid wastes arising from construction activities the proclamation has prohibited the commencement of any construction works in relation to residential houses before a prove has been secured by the relevant authorities, that there is sufficient facility and preparation for environmentally sound solid waste management⁸³.

B. RESPONSIBLE ORGANS FOR SOLID WASTE MANAGEMENT

As per proclamation no.513/2007, the principal organs entrusted with the responsibility to implement solid waste management are urban administrations⁸⁴. By virtue of this ultimate decision making power with respect to the management of solid wastes within the territorial jurisdiction of urban centers is vested on urban administrations. In connection to this, each urban administration bear the duty of creating conducive investment opportunities in relation to the management of solid wastes as well as preparing their respective SWM plan by and through the participation of the public ,mainly at the lowest administration unit, i.e., Qebele or wereda levels⁸⁵.

In addition to these general responsibilities, urban administrations shoulder a variety of specific duties to be discharged within their boundary in relation to the management of solid wastes. Some of the main responsibilities, include “the formulation and implementation of solid waste management action plans, installation of appropriate solid waste bins across the street and public

⁸⁰ Id, see article 10(1) and (2)

⁸¹ Id, see article 11 (1)

⁸² Id, see article 11 (3)

⁸³ Id, see article 12(3)

⁸⁴ Id, see article 4

⁸⁵ Id, see article 4(1) and 5 (1)

places and collecting the gathered solid wastes with sufficient frequency, preparing public awareness raising programs in connection to solid wastes (including, their nature, manner of disposing as well as their impacts), and taking appropriate measures to reverse happenings caused due to the mishandling of solid wastes⁸⁶.

Moreover, urban administrations are endowed with the power to grant different kind of permits necessary to be engaged in activities which have implications on the handling of solid wastes. Among others, they render the service of granting permit to bodies who are interested in the business of collecting, transporting, use or disposal of solid wastes as well as to construction bodies who provide adequate and legally valid bond (security) that they will dispose debris or excavated earth in a manner which is sound environmentally,⁸⁷ save by and through its relevant and appropriate administrative agency.

C. TRANSPORTATION AND DISPOSAL SITES

Regarding the issue of transporting (transferring) solid wastes both for the purpose of collecting them as well as to take them for disposal within the territorial boundary of urban administration the solid waste management proclamation has provided certain rules that need to be observed by those involved in the business of transporting solid wastes. It is only those vehicles which are in conformity with the specific technical requirement prepared by the concerned environmental authority within the urban administration that are eligible for work⁸⁸. In addition to this, the appropriate organ within urban administrations is expected to set a clear and objective standards which stipulate the required degree of skill on solid waste transporting vehicles and those of machine (equipment) operators as well as the standards to be followed while transporting solid wastes so as to avoid the spillover of solid wastes due to over loading⁸⁹.

It is also indicated in the present law that a reliable solid waste disposal site will be made available within the territorial boundary of urban administrations. And it will be put in the use after making sure that its use will be in conformity to the relevant federal environmental

⁸⁶ Id, see article 5(4) (a-e)

⁸⁷ Id, see article 4(1) and 12(2)

⁸⁸ Id, see article 13(1)

⁸⁹ Id, see article 13(2)

standard⁹⁰. With respect to a solid waste disposal site whose construction precedes the promulgation of this law it is a requirement that an environmental auditing be conducted before embarking upon if any activity in accordance with the relevant law⁹¹. Besides, the law has imposed a duty on the urban administrations to undertake a proper environmental impact assessment in connection to both, the construction of new solid waste disposal site or the modification of an existing one⁹².

Apart from these an environmental audit is also required by the law to be conducted as regards an already service giving solid waste disposal site. Depending on the result of the audit made on the operating disposal site, the person under whose ownership the site functions is said to be responsible to bear the necessary costs of modification that are proved essential by the audit made⁹³. The authorities within urban administration are entrusted with the power and responsibility to employ a regular environmental audit on the existing (functioning) solid waste disposal sites found within its jurisdiction.

D. PENALTY

Proclamation no. 513/2007 has introduced both the civil and criminal aspects of liability to be raised in connection with the damage to be caused by solid waste disposal that emanates regardless of the fact that the owner of the site is faulty or without any fault⁹⁴. In cases where the owner is free of fault in relation to his operating or closed solid waste disposal site that caused damage to human health property or the environment the only way he/she can escape liability is if the damage is caused due to the fault of the victim (person) himself or any one for whom the owner of the site is responsible⁹⁵.

As regards the criminal liability, the law is generally said to be shallow. It has failed at least to provide the specific types of violations and their respective penalties, except that it stipulates the general direction upon which criminal liability arises.

⁹⁰ Id, see article 14(1)

⁹¹ Id, see article 14(2)

⁹² Id, see article 14(3)

⁹³ Id, see article 15(1) and (2)

⁹⁴ Id, see article 16(1)

⁹⁵ Id, see article 16(2)

One of the acts entailing criminal liability relates to the commencement of a solid waste management, project without obtaining authorization, requiring a special permit (license) from the relevant environmental authority (agency)⁹⁶. In addition to this, the law has limited itself by indicating that acts which contravene the provisions of this law would constitute a crime resulting in a liability to be dealt with by the relevant rules of the criminal law⁹⁷.

Notwithstanding the legislative powers entrusted to the council of ministers and the competent environmental protection authority, local authorities (urban administration) are endowed with the power to determine the level of fine to be imposed on those who violate provisions embodied within this present legislation⁹⁸. In connection to this, it can be forwarded that the solid waste management proclamation has restricted itself from providing penalties in the form of imprisonments to be part of it except it cross-refers violations of same to be treated in accordance with the appropriate provisions in the criminal code.

3.2.1.2. Environmental Protection Organs Establishment Proclamation No. 295/2002

As can be easily understood from the title of the law, the Environmental Protection Organs Establishment Proclamation (herein after, proclamation no. 295/2002) has the ultimate objective of determining the actual body with whom the overall power and responsibility of protecting the environment resides. As such, the present legislation can be viewed as a deliberate act of reinforcing the previously enacted Environmental Protection Authority Establishment Proclamation No. 9/1995. However, it appears to be imperative to appreciate the changes and developments brought in, in relation to the assignment of responsibilities towards protecting the environment.

Pursuant to this proclamation the main organs that are entrusted with the responsibility and mandate to address the issues related to the problem of protecting the environment include the authority, the council of the authority, as well as sectoral and regional environmental units and agencies⁹⁹. In line with this the law can be said to have enabled the Addis Ababa city administration to enjoy the status of being a region thereby creating the chance for it have its

⁹⁶ Id, see article 17(1)

⁹⁷ Id, see article 17(3)

⁹⁸ Id, see article 14(3)

⁹⁹ See, Environmental Protection Organs Establishing Proclamation No. 295/2002, articles 2(4) 14, and 15

own independent environment within its territorial jurisdiction¹⁰⁰. As such these four organs in principle make up the main bodies after the task of ensuring the well being of human beings through the employment of a sound and workable environmental protection and management mechanisms.

However, it is also important to emphasize on the indispensable roles designed to be played by the newly structured environmental protection authority. As per the law the authority is mandated to spearhead the overall environmental protection endeavors to be undertaken within the country. Consequently, the authority is endowed with a vast power and responsibility if among others formulating policies, strategies, laws and standards along with ensuring their proper implementation¹⁰¹. In connection to same, the Authority is required to obtain an active participation of the competent administrative agencies, concerned organizations as well as the public at large while discharging its responsibility of preparing policies, strategies and laws related to the environmental protection¹⁰². Besides, it possesses the responsibilities of establishing an environmental impact assessment of projects setting an environmental standards and the introductions of measures that awards or condemns the practice having impacts of the environmental thereby governing the behavior of persons¹⁰³. Moreover, the re-established environmental protection authority bore other essential duties which among others include the promotion and provision of awareness raising programs preparation of action plans and directives that help and facilitate the implementation of environmental protection laws as well as the provision of financial and technical assistances to those who work in relation to the protection and management of the environment¹⁰⁴.

Hence, it can be generally observed that the authority though it discharges its duties and responsibilities through consulting with the competent administrative agencies and upon the approval of the council, shoulders the substantial share of responsibilities to be discharged in connection to enforcing the implementation of the various laws enacted in relation to the protection of the environment.

¹⁰⁰ Id, see article 2(8), (9) cum 15

¹⁰¹ Id, see article 5 cum 6

¹⁰² Id, see article 6

¹⁰³ Id, see article 6(4),(8) and (12)

¹⁰⁴ Id, see article 6(17), (18) and (19), (20)

Apart from these the present legislation has the effect of empowering the Addis Ababa city administration to establish its own regional environmental agency having an autonomous authority. The regional environmental agency to be created in fact is expected to be wholly dictated by the basic environmental policies strategies and laws designed and enacted at the national level. And among other things, the regional agency is required to discharge certain fundamental commitments which include the formulation of regional conservation strategies the employment of environmental monitoring protection and regulation as well as the reinforcement of the application of the federal (national) environmental standards, notwithstanding to its ability to introduce and implement a more stringent environmental standard¹⁰⁵.

3.2.1.3. Environmental Pollution Control Proclamation No. 300/2002

The Environmental Pollution Control Proclamation (herein after, proclamation no. 300/2002) appears to be ,relatively, a more relevant legislation to the issue of solid waste management, save in terms of embodying provisions that deal directly and in a considerable degree towards addressing the problem aligned with solid wastes and their management. This, of course, holds true and convincing as the preamble upholds the need to maintain the natural environment with all its aesthetic value along with safeguarding the well being of humans which in turn call for the need to address among others the problems related to solid wastes. Besides the law in an attempt to clarifying the circumstances and substances through which pollution of the environment can be caused has somehow touched up on the issue of dealing with solid wastes management so as to prevent or mitigate the occurrence of pollution¹⁰⁶. As such, the law does not only categorize solid wastes as a source of pollution but also has emphasized the need to properly handle them. It can also be validly contended that the present legislation has envisioned the existence and implementation of all environmental protection laws, including the SWM Proclamation no. 513/2007 in that it holds the view that pollution can be caused due to the violation of provisions incorporated in same¹⁰⁷.

Among others, it is made a prohibited act to cause pollution of the environment by failing to comply with an already set environmental standard found incorporated with in legislations issued

¹⁰⁵ Id, see article 2(8) and (9) and also article 15(1), (2) and (3)

¹⁰⁶ See, Environmental Pollution Control Proclamation No. 300/200, articles 2(8), (9), (11) and (12)

¹⁰⁷ Id, see article 2(12)

in relation to SWM. Besides, the law imposes a duty on those who are engaged in an activity that can cause environmental pollution to employ a sound means (mechanism) which enables the prevention or reasonable reduction in the volume of waste to be produced including the method of recycling¹⁰⁸.

Article 4(1) of the Proclamation deals with, among other things, the management of hazardous wastes. Article 8 and 9 of same legislation, on the other hand, conveys the message that solid wastes can also be considered as hazardous wastes provided that they pose a threat to the safe and healthy life of human beings and the environment. Accordingly, it is possible to validly say that the present legislation has also the purpose of controlling the generation keeping, storage, transportation as well as treatment or disposal of solid wastes provided that they appear to be hazardous to safe keeping of both the environment and human beings through putting to requirement of obtaining a valid authorization from the relevant environmental agency¹⁰⁹. It is also stated that persons, particularly those engaged in the management of hazardous wastes including :the collection, recycling, transporting and treatment or disposal are duty bound to take all the necessary precautionary measures so as to avert or minimize to the extent possible the adverse effects of same¹¹⁰.

Moreover, the proclamation has tried to sufficiently address the issue of waste management, though in general terms, at the level of the municipality. As such, among others, authorities with in municipal administration are required by law to see to it that an effective collection transportation, recycling, treatment and disposal systems with respect to all types of wastes are in place. For the realization of a sound waste management, hence, the application of a proper and an integrated municipal solid waste management (IMSWM) system should be developed. Besides, municipality administrations bear the responsibility of ensuring the adequate implementation of an efficient waste management system along with employing regular monitoring mechanism so as to assure their efficiency and effectiveness¹¹¹.

It is also provided by the law that entities which are engaged in the rendition of public services have the obligation to make available a suitable waste disposing containers so as to facilitate

¹⁰⁸ Id, see article 3(3)

¹⁰⁹ Id, see article 4(1)

¹¹⁰ Id, see article 4(2)

¹¹¹ Id, see article 5(1) and (2)

their easy management. And, the environmental authority as a whole, is duty bound to ensure the availability so sufficient waste disposal facilities within the municipality¹¹².

Article 6 of the proclamation also stated the need to formulate and implement a workable waste management standard. The standard to be formulated, among others, should specify the manner to be stuck to in relation to generation handling, storing, treating as well as transporting and disposing of different wastes¹¹³. In connection to this, the Addis Ababa City Administration is vested with the right to formulate its own environmental standards, save, they are not less stringent than the federal environmental standards¹¹⁴.

For the purpose of ensuring the proper implementation environmental standards, in fact the law has envisaged the establishment of “Environmental Inspectors” to be assigned by the environmental protection authority. The environmental inspector is free to discharge its entrusted powers of ensuring compliance of environmental standards even without the need to obtain court order or prior notice so as to enter any land or premise¹¹⁵.

The law has also provided an incentive scheme to be extended for those who endeavor towards the elimination or mitigation of pollution in connection to their activities. As per the decision of the environmental authority an incentive in the form of exemption for custom duties can be awarded to anyone who imports equipment which is destined for the purpose of controlling pollution¹¹⁶.

More importantly, the present environmental pollution control proclamation has addressed the issue of “right to standing” in relation to environmental matters. In connection to this, the law stipulates that every individual (person) is entitled to lodge an application with respect to any act which has the potential to damage the environmental to the environmental authority without the need to prove any right or interest¹¹⁷. Even after a decision is given by the authority, a person aggrieved by the decision is empowered to bring an action before the court with the proper

¹¹² Id, see article 5(3) and (4)

¹¹³ Id, see article 6(1) (e)

¹¹⁴ Id, see article 6(4)

¹¹⁵ Id, see article 7 and 8(1)(b)

¹¹⁶ Id, see article 10(2)

¹¹⁷ Id, see article 11(1)

jurisdiction. The authority is required to give its decision with a month's time, and its default to discharge this duty in time renders the right to take the case before the court for the applicant¹¹⁸.

Concerning violations relating to environmental rules and regulation and the respective penalties to be awarded, the present legislation is, so to speak, a comprehensive piece of law addressing a bundle of environmental protection oriented criminal liabilities. The law has dealt with environmental offences which includes penalties for offences under any relevant environmental legislation that provides no provision addressing the penalties to be imposed, penalties for offences to be committed in relation to environmental inspectors penalties for offences to be committed in relation to the duty to keep records there by tampering with the business of waste management through affecting the provision of the requisite information, penalties for offences in connection to failures to properly deal with the duty of managing wastes which have hazardous impacts upon the environment as well as on human beings, and also penalties for offences relating to the discharge of pollutants to the environment thereby contravening any relevant environmental law¹¹⁹. Not only this, the law has gone further to the extent of addressing the issue of stipulating penalties in cases of for both natural persons as well as juridical persons. In connection violations of environmental legislations by juridical persons, the law has also provided the circumstances of the basis of which officers in charge of heading the juridical person to be held criminally liable to the committed violation¹²⁰. As such, it can be seen that Proclamation no. 300/2002 has embodied a considerable number of provisions dealing with criminal punishments which, among others, indicates its commitment towards the enforcement of environmental protection legislations.

3.2.1.4. Public Health Proclamation No 200/2000

The Public Health Proclamation (herein after, proclamation no. 200/2000) has the principal mission of sustaining public health. And, for the purpose of fulfilling the objective of maintaining the safety of human beings the law has envisioned the introduction of certain legal rules that foster the protection of the environment. One of the rules introduced by this law with the aim to promote public health is the rule which provides the appointment of "Inspectors" by

¹¹⁸ Id, see article 11(2)

¹¹⁹ Id, see article the whole of part five of the Pollution Control Proclamation No. 300/2002

¹²⁰ Id, see article 12(2)

the Public Health Authority. Inspectors, among others have the responsibility of making sure that legislations related to the protection of public health are being effectively implemented¹²¹. Wastes in general and solid wastes in particular are one major cause that entails a problem to public health, and hence it seems tenable to forward the view that the present legislation has envisioned ,among others, Proclamation no. 513/2007 as one of the relevant environmental laws needing implementation through the role to be played by inspectors.

With the ultimate goal of ensuring public health, the law has also addressed the issue of solid waste management under article 12 through imposing the duty not to dispose any type of waste which obviously includes solid wastes arbitrarily in a place where it is not identified for that purpose as well as in a manner that is detrimental to the environment thereby affecting public health¹²². Wastes to be released and discharged to the environment, emanating from hospitals in particular are required to be disposed in a manner that satisfies the standard procedures to be set by public health authorities¹²³.

In addition to addressing the above mentioned issues, the proclamation has managed to incorporate a very relevant provision which deals with the punishment to be imposed in connection to the issue of solid waste management. It provides that any person who committed an act of discharging or disposing wastes including those of solid ones, outside waste containers which are prepared for the collection of same will be punishable by a simple imprisonment from three months up to three years and by a fine from one thousand up to nine thousand Birr¹²⁴. As such, it is possible to draw the conclusion that the Proclamation has a firm stand in the protection as well as promotion of public health looking at the cumulative imposition of the penalty both, in the form of fine and imprisonment.

3.2.1.5. Environmental Impact Assessment Proclamation No 299/2002

The overall aim of promulgating the Environmental Impact Assessment proclamation (herein after, proclamation no 299/2002), among others, is to predict and manage the possible environmental impact of any proposed developmental project (activity) and promote public

¹²¹ See public Health proclamation No. 200/2002, article 6 cum 7(1)

¹²² Id, see article 12(1), (2)

¹²³ Id, see article 12(3)

¹²⁴ Id, see article 20(2)

participation both at the level of planning as well as decision making on development that could affect the environment thereby distorting the well-being of human beings¹²⁵. As such, the Proclamation can be viewed as a relevant legislation with respect to the issue of SWM in relation to solid wastes to be generated in connection to the commencement or the resumption of any developmental project, provided that the wastes are capable of creating an adverse impact on the environment.

The proclamation envisages two types of projects those requiring and not needing the carrying out of an environmental impact assessment to be determined through a directive¹²⁶. To this effect, the EPA has managed to issue a directive¹²⁷ thereby identifying projects needing and not needing environmental impact assessment. In line with this it can be validly contended that the legislation would have a considerable contribution with regard to the construction of a new or a modification of an already functioning solid waste disposal site¹²⁸. It appears imperative also to note that the law imposed the duty to undertake an environmental impact assessment on the owner of a proposed project. The proponent of the project therefore is expected to bear the necessary expenses so as to employ the required experts to conduct the assessment on the basis of the specific criteria stipulated within the directive issued by the authority¹²⁹. Besides it is provided in the law that certain minimum elements need to be mentioned as part of the environmental impact study report to be conducted which among others include the nature of the project (including the technology as well as process to be used), the content and amount of pollutant to be discharged both during implementation as well as operation of the project and measures and mechanisms to be employed by the proponent of the project with a view to avoid or reduce its adverse impacts¹³⁰. This, in turn, promotes the effort to be exerted towards the management of solid wastes provided that the proposed project has the impact of generating solid wastes or the project itself is meant to deal with the purpose of solid waste disposal.

¹²⁵ Environmental Impact Assessment Proclamation No, 299/2002, see the Preamble

¹²⁶ Id, see the whole of part two, articles 3, 4 and 5

¹²⁷ Directive No. 1/2008, A Directive Issued to Determine Projects Subject to Environmental Impact Assessment

¹²⁸ See, Proclamation no 513/2007 article 14(3) ,see also Environmental Impact Assessment Proclamation no. 299/2000 article 3(1)

¹²⁹ See, Environmental Impact Assessment Proclamation no 299/2002 article 3(1)

¹³⁰ Id, see article 8(1), (2) (a),(b) and (f)

In line with this, the law has imposed an obligation on the environmental protection authority or any relevant regional environmental agency to employ a watchful eye as to the proper compliance to the commitments accepted by the owner of the project by the time of granting the permit¹³¹. As such, there would be ample opportunity for enforcing the rules, among others, related to the management of solid wastes in a continuous and regular manner thereby ensuring the protection of the environment.

Concerning the penalties to be awarded, the present legislation has limited itself in providing punishments in the form of fine precluding the use of imprisonment as an option to punish violators. Pursuant to the law under discussion any person is criminally liable if found (proved) to have failed to obtain an authorization from the authority or any relevant regional environmental agency) or provide information concerning the assessment of the proposed project in its report and punishable with a fine from 50,000 up to 100,000 birr¹³². In case of a juridical person being made liable criminally in relation to a similar offence its manager who failed to act in a manner of due diligence causing the violation would separately be penalized by a fine from 5000 up to 10, 000 Birr, in addition to the punishment to be imposed on the juridical person for failing to keep sufficient records of in relation to environmental impact assessment which is a fine from 10,000 up to 20,000 Birr¹³³. In addition, the court before which the criminal case is brought in connection to an offence provided under this law or any other legislation in relation to same is vested with the power to order the payment so as to compensate the damage suffered or restore the environmental conditions through any possible way in addition to the decision to be rendered as a penalty¹³⁴.

3.2.2. Addis Ababa Municipality Laws

3.2.2.1. The Addis Ababa City Government Revised Charter Proclamation No. 361/2003

The Federal Government (legislator) seem to have an overwhelming ambition to see the city of Addis Ababa being a modern as well as a safe and healthy place both, to work and live in, through enacting the Addis Ababa City Government Revised Charter (AACGRC, herein after

¹³¹ Id, see article 12

¹³² Id, see article 18(2)

¹³³ Id, see article 18(3) and (4)

¹³⁴ Id, see article 18(5)

proclamation no 361/2003). Of course, the ambition to make the city so is heavily premised on the fact that it is not only the capital of the Federal Government but also the seat of the African Union as well as many other international organizations¹³⁵. These, among others, constitute some of the underlying objectives of the Addis Ababa City Government, as per the same legislation¹³⁶.

Pursuant to the present legislation residents of the City of Addis Ababa have been accorded certain basic rights which, includes: obtaining information to fully participate in any developmental activities to be undertaken within the City consistent with the principles of equality, transparency, and accountability¹³⁷. Accordingly, the city government bears the obligation to provide to residents an expedient as well equitable as municipal services¹³⁸ which also include issues of city sanitation and beautification¹³⁹. Besides, it is stated that the City Government shoulders the responsibility to keep the City clean, green and favorable through employing mechanisms that can prevent environmental pollution¹⁴⁰.

The Charter has envisaged a dual-layered court system which works for the accomplishment of the City Government's objectives, namely the Addis Ababa City Courts and Qebele (wereda) Social Courts, each enjoying their own sphere of jurisdiction¹⁴¹. The Addis Ababa City Courts are vested with, among many others, the power to entertain almost all cases involving suits related to the regulatory power and function of executive organs within the City Government, with respect to civil matters. In addition to this, they are endowed with the power to try criminal cases relating to petty offences along with the power to entertain cases related to the issue of execution of penalties to be imposed by the City's (administrative) executive agencies in connection to petty offences¹⁴². Whereas, Qebele Social Courts are made to have a limited jurisdiction both, on civil and criminal matters. Suits pertaining to civil matters are possible to be entertained by Qebele Social Courts only if they appear to relate to property or money claims

¹³⁵ Proclamation No. 361/2003, see the Preamble

¹³⁶ Id, See article 9(2) and (3)

¹³⁷ Id, See article 7(1) and (2)

¹³⁸ As per article 2(4) of the Charters, municipal services include: water and sewerage services, road construction service, fire and emergency service, day to day services for residents including civil status record operation, land development and management, city sanitation and beautification and other services to be designated as such by the city government".

¹³⁹ Id, See article 9(1)

¹⁴⁰ Id, See article 9(8)

¹⁴¹ Id, See article 39

¹⁴² Id, See article 41(1)(b) and 41(2) (b), and (d)

not exceeding 5000 Birr. On the other hand, Qebele Social Courts enjoy criminal jurisdiction, particularly, in relation to the City's hygiene, public health regulations as well as other similar petty offences¹⁴³. Hence, along with other environmental administrative bodies, these judicial entities are expected to contribute towards the facilitation of solid waste enforcement through adjudicating petty offences pertaining to the disposal of solid wastes.

The Charter has also stipulated another important provision in relation to the City Government's possibility to obtain a financial assistance from the Federal Government. It is stated that the City Government may receive financial support, among others, for the purpose of achieving certain developmental goals to be undertaken within the Municipality. Besides, the Federal Government may also render a considerable financial assistance towards the City Government, with a view to facilitating the commencement of developmental programs that could have a valid and acceptable contribution and value for the whole nation¹⁴⁴.

3.2.2.2. Proclamation to Provide for the (Amendment) of the Addis Ababa City Government Qebele Social Courts, Proclamation No. 31/2007

The Amendment Proclamation for the Addis Ababa City Government Qebele Social Courts (herein after, Proclamation no. 31/2007) comes in to picture having the underlying objective of determining their judicial jurisdiction as well as to provide a legal foundation for their organizational structure and the procedure to be followed while conducting their task¹⁴⁵. Pursuant to this law, these Courts are generally endowed with the power to entertain both, civil cases involving property and pecuniary interests amounting up to 5000 Birr, as well as criminal matters pertaining to petty offences. It is said that each Qebele social court will have a total of five judges so as to help accomplish cases to be brought to it¹⁴⁶. By virtue of same legislation, they are also made to have the power to entertain petty offences other than those mentioned within the Charter under its article 41(2)(b) and (d) including: offences arising from the violation of regulations relating to hygiene and public health as well as other similar legislations¹⁴⁷.

¹⁴³ Id, See article 50(1) and (2)

¹⁴⁴ Id, See article 55(1)

¹⁴⁵ Proclamation no. 361/2003, see articles 50/5/ and also see Proclamation No. 31/2002, *Addis Negarit Gazeta*, 5th year, No. 54, 2nd August, 2000, Part Two and Three,

¹⁴⁶ Proclamation No. 31/2007, See article 4 cum 5,

¹⁴⁷ Id, See article 5(2)

According to article 9 of the Proclamation, it is made a requirement that in order to validly institute a legal action before the courts, applications of civil cases as well as petty offences need to be presented by filling a form. However, in relation to the institution of an application of petty offences, the law has made it mandatory to be filled and brought by a specified body, which is designated by the relevant legislation¹⁴⁸. It is also provided that the court will only delve in to the task of hearing the statement of claim after it has proved that the parties to the litigation has failed to resolve their case through arbitration, by themselves¹⁴⁹. From these, it can be validly inferred that the law maker has deliberately limited the persons with the entitlement to bring an action before the courts thereby preventing the possible active participation of the public. As such, the role of residents, within the each Qebele courts, is virtually limited towards the provision of information for those designated entities.

Concerning the enforcement of decisions to be given by Qebele courts the present legislation has made it clear that they are vested with and can exercise the power of executing their own decrees possibly by and through the making use of the Police or the Code Enforcement Service¹⁵⁰.

The penalty to be imposed by the Courts may include, provided that it is necessary, a temporary imprisonment, possibly under the custody of the Police. Under normal circumstances the courts are empowered to impose a fine which is 15 Birr, in case of an individual violator and 100 Birr in case of an organization. In addition to these, the court may cumulatively order, against the defendant measures to be undertaken by same, aimed at expelling, cleaning as well as removing any eminent harm arising from the violation of the relevant legislation pertaining to SWM¹⁵¹.

3.2.2.3. Waste Management, Collection and Disposal Regulation No. 13/2004

This particular legislation (herein after, regulation no.13/2004) being an instrument to enable and facilitate the effective implementation of major laws pertaining to solid wastes and their impact on the environment as well as health of human beings has stipulated a detailed rules and principles which are geared towards the promotion and enhancement of solid waste management in the city of Addis Ababa. Among others, the issues of proper management of solid wastes,

¹⁴⁸ Id, See article 9(2)

¹⁴⁹ Id, See article 10, the whole part

¹⁵⁰ Id, See article 18

¹⁵¹ Id, See article 29 and also Annex 2(1)

prohibitions in connection to discharging (disposing) solid wastes in an unauthorized places, the manner of collection of solid wastes, issues related to the reduction and recycling of solid wastes, the manner of using and handling of solid waste storage facilities and containers, issues of transporting solid wastes as well as the management of solid wastes to be generated by animals are addressed under this regulation¹⁵².

Looking at the specific and detailed provisions incorporated within the regulation, it can be viewed as a comprehensive legislation which is beyond a mere reiteration of the basic rules and principles found embodied within other relevant solid waste management related laws. The law has imposed a legal duty on those who are responsible for the generation of solid wastes, in relation to households and other organizations with respect to the proper management of solid wastes. For instance, they are required to properly store solid wastes by using containers having a cover up until they are collected by the relevant body¹⁵³. Besides, they are expected to dispose the solid waste they stored in communal dumpsters or to deliver it to “on line workers” by sorting according to the waste type, provided it is necessary¹⁵⁴. It is also stipulated that they shoulder the responsibility to ascertain that they are managing solid wastes in a manner which is not detrimental to the health of human beings as well as capable of causing environmental pollution. It is also necessary to keep clean the area stretching up to 20 meters from the end of their premise¹⁵⁵.

On the other hand, a responsibility is also born by any given service provider both, government as well as non government, among others, to ensure the existence of adequate waste containers for its visitors and customers in a convenient manner. Even, those entities engaged in the business of sanitary service are duty bound to make sure that they are employing a healthy and an environmentally sound systems in accomplishing their tasks¹⁵⁶.

As per article 4 of the regulation, every person is also made responsible as to the manner of disposing solid wastes. For instance, among others, discharging solid wastes at public places which are not designated for placing and piling materials including: cement, gravel or parts of a

¹⁵² Regulation No. 13/2004, *Addis Negari Gazeta*, 2nd Year, No 29, 19th Feb, 2004, see articles 3, 4, 5, 6 and 7.

¹⁵³ *Id*, See article 3(1) and 3(2)

¹⁵⁴ *Id*, See article 3(3) and 3(4) wastes can be categorized (sorted) as compostable ,non compostable ,re-usable, non servable, special and hazardous waste

¹⁵⁵ *Id*, See article 3(5) and 3(6)

¹⁵⁶ *Id*, See article 3(7) and 3(8)

used car in public places or places unauthorized for these purposes as well as fixing advertisements on a wall, an electric or telephone poles is clearly prohibited¹⁵⁷. In relation to this, sanitary service¹⁵⁸ organizations are also forbidden to discard burn or bury solid wastes except in places authorized by the sanitation, beautification and parks development agency of Addis Ababa city Government¹⁵⁹.

Regarding the business of collecting solid wastes, the burden of ascertaining that solid wastes are being duly collected keeping by them properly until disposed and also the using of barrels with adequate cover or sacks properly tied at the mouth so that it is possible to avoid possible littering of solid wastes both, during collection and transportation¹⁶⁰. The other bodies that are made to bear responsibility are entities which are engaged in importing and manufacturing of plastics and similar wrapping materials including those who use same things for the purpose of covering their products. The law wants these bodies to exert their effort towards both, reducing the wastes relating to same as well as enhance the possibility of the materials for re-use or recycling. Besides, the materials should be proved to have the capacity to be used for a relatively longer time repeatedly in a manner compatible to the environment¹⁶¹.

The other important rule of the regulation with regard to solid wastes is the one which addresses the issue of usage and management of solid waste storage facilities and containers. The sanitary organization take, in fact, the lion's share of the responsibility in that they are expected to firstly, place the appropriate number of communal dumpsters by taking in to account the amount of waste to be generated and secondly, to keep the container clean through assigning a guard thereby avoiding the possibility of undesired littering of the waste by animals or persons. Besides, it remain to be the duty of the sanitary organization to see to it that the communal dumpster is quickly emptied within a reasonable time of interval before it is too late to prevent over flow of the solid wastes that can cause a health problem¹⁶². Moreover, users of the container

¹⁵⁷ Id, See article 4(a), (c), and (d)

¹⁵⁸ Sanitary Services are said to comprise activities like collecting of solid wastes from different sources, transporting, carrying to transfer and disposal landfill and sorting waste by its character and type in accordance with standards set by the appropriate organs rendering permanent or mobile toilet service, develop or expand waste disposal site and disposal of wastes in various places, see article 2(2)

¹⁵⁹ Id, See article 4(2) cum 2(1)

¹⁶⁰ Id, See article 5(a)-(d)

¹⁶¹ Id, See article 6(1) and (2)

¹⁶² Id, See article 7(1) and (4)

are also responsible both for the proper usage in the sense that they only use it for solid wastes storage as well as to discard solid wastes inside the dumpster¹⁶³.

The issue of transporting solid wastes both to the transfer or disposal site has been duly addressed by the regulation. The law has clearly stipulated the need for the use of properly capable vehicle which is sufficient to hold the waste. In addition, in order to avoid the occurrence of littering on the streets to be caused by wind while moving (transporting), the vehicle is required to have a cover that can prevent the creation of dirt in the surrounding¹⁶⁴.

In relation to the solid wastes to be generated by animals, a bundle of rules are provided. Among others, allowing animals under one's possession to defecate on streets and public places, transporting straw or grass by using the back of animals in a manner that cause dirt to the city, discarding dead animals in the street, sewerages and other public places, transporting animals through the city streets for any purpose without appropriate cover as well as conducting a butchery service and dispose by-products on a manner that affects public health and the environment are made to constitute a condemned act by the regulation¹⁶⁵.

Part three of the regulation deals with the manner of management and disposal of solid wastes that are generated from defined places which includes: compostable wastes (like fruits and vegetables) as well as construction and demolition wastes. As such, those engaged in the commercial activities related to vegetables and fruits bear the duty to dump wastes in connection to same in a special container prepared for this purpose in an environmentally sound manner¹⁶⁶. Apart from this, those engaged in building and construction work are similarly required to clean up any ruin, soil and other substances which are consequences of the work and it is prohibited to leave (dump) them in an unauthorized places¹⁶⁷.

On the other hand, the law has tried to address the issue of managing solid wastes through stipulating certain provisions in relation to burning of wastes and the method of incineration. Solid wastes are to be burnt only in a waste burning incinerator upon approval of the relevant authority. Hence, all forms of an arbitrary burning in a street or public places is not allowed.

¹⁶³ Id, See article 7(2) and (3)

¹⁶⁴ Id, See article 8(1)

¹⁶⁵ Id, See article 9(1)-(6)

¹⁶⁶ Id, See article 10

¹⁶⁷ Id, See article 11(1) and (2)

And, the law has made it compulsory to prove that an act of ruining of a range or plastic is devoid of any hazardous impact on the environment through the use of a duly formed incinerator along with the employment of a sound management method¹⁶⁸.

The law has envisaged the establishment of various organs that facilitate the implementation of the rules embodied in it namely: The Addis Ababa City Government Sanitation, Beautification and Parks Development Agency, Code Enforcement Service as well as Regular and Traffic Police. The Agency has the main duty of, among others, granting permit to bodies engaged in city sanitary, employing a follow up and evaluating sanitary service giving bodies with the aim to take corrective measures, recommend (propose) the introduction of new Incentive as well as controlling schemes so as to improve sanitary services, and also to create a conducive atmosphere for investors to participate in the solid waste service venture¹⁶⁹. The Code Enforcement Services, on the other hand, are mandated to discharge two fundamental responsibilities through assigning Code Enforcement Personnel. These are ensuring the proper conduction of the city's sanitary service and protecting (prevent) the city from the danger of illegal discarding of wastes¹⁷⁰. In addition, they are empowered to impose penalties, save, as per the penalty schedule, implementing penalties or cause them to be implemented¹⁷¹.

Apart from these, other organs including, regular and traffic police ,the authority, sub-city administration, Qebele level administration, schools and other educational institutions within the territorial jurisdiction of the City of Addis Ababa ,both governmental and nongovernmental organizations along with other commercial institutions, religious institutions as well as transport service delivery organizations and service delivery institutions are expected to play their own respective roles towards the proper enforcement of the regulation¹⁷².

Moreover, residents of the city are required to observe Addis Ababa sanitation day through a voluntary endeavor so as to keep clean and healthy surroundings. Besides, people engaged in trading goods or plants (fruits and vegetables) with wrapping materials or sweepings are obliged

¹⁶⁸ Id, See article 14

¹⁶⁹ Id, See article 2(1), (3) (4)

¹⁷⁰ Id, See article 22 (a)

¹⁷¹ Id, See article 22 1(b)

¹⁷² Id, See article 22(2)-(10)

to properly dispose them. The law has even prohibited trading of certain, especially, items like grass, straw, sugar cane, fruits or other materials in the streets or unauthorized places¹⁷³.

In an effort to accomplish the task of maintaining a clean and healthy city, the law has also envisioned the establishment of the “Sanitation and Care Fund”. Among others, the fund has the underlying objective of assisting and facilitating the city government’s endeavor to enhance the level of sanitation through creating an additional financial capacity¹⁷⁴.

Having the aim of promoting sanitary services in view, the law has provided different incentive arrangements for those entities to be engaged in the delivery of sanitary services. Some of the benefits in this regard include, among others, exemption from profit tax and customs duties to be collected by the city administration, access to service of landfill owned by the government (especially, for micro enterprises and associations), provision of long term loan so as to expand the sanitary service, provision of reward for coming up with an outstanding and innovative sanitary service projects, as well as the provision of land without payment for those who are said to present an indispensable and enormous contribution to improving the city’s sanitary service¹⁷⁵.

As regards penalty in connection to violation of the proclamation, the law has intended for an immediate implementation of penalty through imposing a fine, in accordance with the schedule attached with same law. Persons who are not capable of affording the fine would be penalized alternatively by an imprisonment to be determined by the city First Instance Court. Besides, it is provided that persons who disposed wastes in places not authorized for it would be obliged to collect and dispose it on his/her own expenses¹⁷⁶.

Moreover, in an effort to foster the implementation of solid waste management rules in the city the law has offered an incentive of awarding half of the fine of certain offences provided that a person has managed to inform the perpetration of the offence. In addition, it is stipulated that penalty for persons who have repeatedly violated the regulation would be double the amount of penalty provided for the last fault committed¹⁷⁷.

¹⁷³ Id, See article 23 cum 24(1) and (2)

¹⁷⁴ Id, See article 26

¹⁷⁵ Id, See article 29

¹⁷⁶ Id, See article 30(1), (2) and (3)

¹⁷⁷ Id, See article 30(4) and 31

3.2.2.4. Addis Ababa City Government Environmental Pollution Control Regulation

No. 25/2007

The Addis Ababa City Government Environmental Pollution Control Regulation No. 25/2007 (herein after, regulation no.25/2007) has, among others, prime purpose of combating environmental pollution to be caused by solid wastes. The main rational stated in the preamble is to maintain the safe and healthy existence of human beings as well as other living things thereby promoting the aesthetic value as a whole. For this purpose, the regulation has imposed a firm responsibility to endeavor towards the protection of the environment on everyone¹⁷⁸.

The principal focus being on addressing this issue of reducing or possibly preventing the occurrence of pollution within the city of Addis Ababa, the regulation has not dealt with the issue of solid waste management in detail as such. However, there exist certain provisions that must be given a considerable attention. The first provision which deals with solid wastes imposes a duty to refrain on any person from discarding solid wastes in to rivers and sewerage both directly and indirectly¹⁷⁹. Moreover, persons who are involved in the generation of wastes shoulder the obligation to provide sufficient and valid information concerning the amount, type and content of any substance which they release in to a water body, to the Addis Ababa City Government Environmental Protection Authority.¹⁸⁰ As such, it appears to be safe and plausible to forward the conception that the law has envisioned, though by a necessary implication, the employment of a sound and acceptable solid waste management in the city of Addis Ababa.

In an effort to effectively and efficiently implement the rules and principles embodied within the law, all the three types of enforcing approaches namely: administrative, civil and criminal are adopted. Hence, among others, the authority is empowered to render a decision or take any regulatory measure on any person both of which administrative in nature, all with a view to avert the existence or halt the beginning or continuity of environmental pollution¹⁸¹. The decision of the authority is appealable to the general manager of the authority, save after performing the decision given or measure taken by the authority that is expected to render his decision within

¹⁷⁸ Regulation No. 25/2007, see the preamble.

¹⁷⁹ Id, see article 8(1) (b)

¹⁸⁰ Id, see article 10(1)(a), (c)

¹⁸¹ Id, see article 21(1)

fifteen days. Even after a decision is given by the general manager of the authority, an aggrieved party is entitled to take the case before a court with an appropriate jurisdiction¹⁸².

Regarding civil liability, the person who is proved to have violated the rules incorporated in this law and caused pollution, will be held responsible, basically for reinstating the environment to the situation it used to be before the occurrence of the pollution bearing its expense as well as for compensating the damage caused to any person or property¹⁸³. In addition to this, the tribunal before whom the civil case is instituted may order for the suspension stoppage or avoidance of an activity that can entail pollution even before determining the civil liability¹⁸⁴.

It is also provided that violating provisions incorporated in the regulation will result in a criminal liability which is punishable in accordance with the relevant federal laws, or on the basis of the criminal law in force¹⁸⁵. Generally, the type of offences resulting in criminal liability under this legislation include: offences to be committed in connection to environmental inspectors, offences relating to record as well as the provision of information concerning waste management and offences relating to hazardous wastes¹⁸⁶.

Apart from these, all persons are entitled to exercise the right both to provide any relevant information and/or also to institute an application before the authority against any one alleged to cause or believed to entail environmental pollution by reason of his/her activity. The applicant is not required to show that he/she has a vested interest (locus standi) in relation to the matter he/she is applying for. And if the authority set aside the application or failed to render its decision within the period of time prescribed for same purpose, the applicant is at liberty to appeal to the court with competent jurisdiction, save; within sixty days from the time the decision is given by the authority or the deadline for giving decision by the authority¹⁸⁷.

3.2.3. Other Legal Instruments

States normally introduce some other legal instruments of lower level, in terms of hierarchy, in connection to the promulgation of certain laws. Not only this, legal documents which are of

¹⁸² Id, see article 21(2),(3) and (5)

¹⁸³ Id, see article 22(1)(a) and (b)

¹⁸⁴ Id, see article 22(2)

¹⁸⁵ Id, see article 23

¹⁸⁶ Id, see article 24,25 and 26

¹⁸⁷ Id, see article 27

higher importance especially in dictating the content as well as over all spirit of a given legislation (law) are usually made available within the state. The main purpose of having the former kinds of legal instruments is mainly to facilitate the easy and effective implementation of rules embodied within a given law whereas, the later types of legal instruments relate to the manifestation of major rules, principles, values, convictions, objectives as well as missions adhered by the state along with its people (citizens) with respect to a particular law.

In the subsequent part attempt will be made to deal with basically the environmental policy position (perspective) of Ethiopia, as well as the existing environmental guidelines within the country, all in connection to the issue of solid waste management.

3.2.3.1. Policy

Generally speaking, the FDRE Constitution, which came in to force in 1995, is the first and main legal document which provided the underlying environmental policy direction of the nation. The cumulative reading of article 43, 44 and 92 appear to lay the environmental policy foundation of the country. The Constitution provides in no unclear terms that the principal environmental policy direction of the country is geared towards the achievement of certain fundamental values. Among others, striving for an improved living standard and sustainable development through protecting the environment, ensuring the enjoyment of a clean and healthy environment by the people, ascertaining that all projects and programs are free from adversely affecting the environment and emphasizing on the responsibility of both the government and nationals to protect the environment¹⁸⁸. As such, all efforts to be exerted so as to promote the protection of the environment, in Ethiopia, are required to be in line with these basic policy conceptions and spirit of the Constitution.

In addition to the provision of the basic environmental policy convictions of the nation in the FDRE Constitution, the Ethiopian Government has managed to introduce in a formal way the country's "Environmental policy" in 1997. The Environmental Policy of Ethiopia (EPE), being substantially dictated by the spirit and environmental values enshrined in the constitution, upholds certain essential environmental principles. Among other things, the policy document has emphasized the importance of employing an impact assessment mechanism of a developmental

¹⁸⁸ See, FDRE Constitution, articles 43, 44 and 92

undertaking on human beings and the environment, preparing organized plans for the protection of the environment through employing a stringent controlling and monitoring schemes and also the introduction of a sound enforcing systems of environmental laws¹⁸⁹.

Generally, the Ethiopian environmental policy can be viewed to have both a general and specific objective to be accomplished by the state. Consequently, it is provided that the government has upheld the purpose of enhancing the health and quality of life of the people by managing in a sound manner all resources as a general environmental goal¹⁹⁰. On the basis of the above mentioned general policy, the environmental protection authority has enumerated a number of specific environmental policy objectives. Some of these include: the prevention of pollution of land, air and water in an effective way, the promotion of people participation in an environmental decision making as well as the strengthening of the endeavor to raise public awareness of the essential linkage existing between protection of the environment and development¹⁹¹.

In addition to this, the policy document has also devoted a considerable part to the discussion of the issues of solid waste management under the section which deals with "Human Settlement, Urban Environment and Environmental Health. The policy document has also envisaged the need for implementing improved environmental sanitation along urban centers with a view to facilitating urban development. Besides, it is an underlined conception that the provision of continuous education on environmental sanitation so as to bring about behavioral change as well as enhance public awareness in relation to the protection of the environment¹⁹².

Moreover, the policy has clearly stated that the issue of collecting wastes as well as disposing them is a priority concern and should be carried out in a responsible and safe manner thereby averting their potential danger both to the human beings and the environment. Regarding the operation of sanitary land fill sites, the policy has manifested expressly the indispensability of conducting a valid and reliable research as to ensure a safe (secured) and environmentally sound functioning landfill in or around urban centers which poses no obstacles to the multi faceted

¹⁸⁹ See, The Environmental Policy of Ethiopia, 1997

¹⁹⁰ Ibid

¹⁹¹ Ibid

¹⁹² Ibid

developmental endeavors of the people¹⁹³. In connection to same, the policy has indicated the need to deal with the issue of managing both solid and liquid wastes to be generated within urban centers. And, the employment of waste management techniques like recycling to derive benefits including the production of; energy, fertilizers or anything that could foster social and economic interest of the people¹⁹⁴.

3.2.3.2 Guidelines

Environmental guidelines are usually set out to help facilitate an easy and clear understanding of existing environmental legislations. As such, they have the purpose of ensuring the effective and efficient implementation or enforcement of the major law for which the guideline is prepared. Hence, guidelines provide a significant contribution towards proper application and realization of the underlying policy principles and core values adhered to in connection to the protection of the environment. Thus, the existence of an applicable guideline, among others, opens the door wide for the promotion of transparency and accountability especially, with respect to the body which is entrusted to administer environmental endeavors in the country i.e., the authority.

Exercising its legal power¹⁹⁵ to formulate laws, policies, strategies and standards in relation to the protection of the environment, the EPA has adopted an environmental impact assessment procedural guideline in 2003. And, this in fact happens to be the first environmental guideline produced by the Authority.

The environmental impact assessment procedural guideline, being heavily dictated by the legal and policy context of the country, has indentified the procedures that need to be adhered to in carrying out environmental impact assessments. Besides, it has, among other things, provided the specific processes that have to be passed through in order to obtain a license. The guidelines also lay the detailed duties and responsibilities of the relevant administrative agencies within the authority or, regional environmental agency as well as the requirements that must be fulfilled so as to attain an operating license¹⁹⁶.

¹⁹³ Ibid

¹⁹⁴ Ibid

¹⁹⁵ See, Environmental Protection Organs Establishment Proclamation No. 295/2002, articles 5, 6(2) and 6(4)

¹⁹⁶ See, Environmental Protection Authority Environmental Impact Assessment procedural Guideline, Series 1, Federal Democratic Republic of Ethiopia

Generally, the EIA Guideline has made a significant contribution in the facilitation of the implementation of the environmental impact assessment proclamation No. 299/2002 in that it incorporated schedule of activities to be accomplished in the form of a project thereby indentifying (determining) whether each activity require to undergo an environmental impact assessment procedure¹⁹⁷. In connection to this, a note can be taken that the construction of solid waste management facility including: the act of collecting as well as transportation activity projects are made to fall under the category of projects that should be subjected to an environmental impact assessment test¹⁹⁸. This, among others, convey the message that the task of dealing with solid waste management is taken seriously ,on the part of the authority, for fear that the failure to properly conduct it might result in an undesired consequences both, on the health of human beings as well as the overall environment.

¹⁹⁷ Id, see Annex III

¹⁹⁸ Id, See Annex III, schedule 1

Chapter Four

Enforcement of Solid Waste Management Laws in the City of Addis Ababa

This particular chapter will attempt to investigate into the actual implementation of laws related to solid waste management (herein after, SWM) in Addis Ababa. Hence, among others, the efficiency and effectiveness of the prevailing practice, the roles being played by various organs which are entrusted with the power to enforce SWM rules as well as the issue of judicial enforcement of the laws will be dealt with.

4.1. Implementing Solid Waste Management Laws in Addis Ababa

The FDRE Government in an effort to cause the prevalence of a safe and healthy environment within its territorial jurisdiction as well as discharge its international commitments has undertaken enormous activities thereby discharging its constitutional responsibility. Among others, the attempt to enact as many and relevant laws as possible geared towards protecting the environment is worth mentioning. This, of course, can be observed from the various legislations that are made available both at the level of the federal and the Addis Ababa City Government. However, the promulgation of laws related to solid waste management appear to be only the first step seen in light of the realization of the underlying objectives and goals for having the laws, i.e., protecting the health of the public and the environment.

4.1.1. Institutional Framework

With a view to facilitating the overall efforts of protecting the environment in the nation as a whole, a federal institution at the federal level known as the Environmental Protection Authority (herein after, EPA) is established in 1995¹⁹⁹.

Besides, pursuant to the Environmental Protection Organs Establishment Proclamation (herein after, proclamation no 295/2002), the Addis Ababa City Government Environmental Protection

¹⁹⁹ Compare, *Environmental Protection Authority Establishment Proclamation No. 9/1995*, article 3, 6, 7 and *Environmental Protection Organs Establishment Proclamation No. 295/2000*, article 3, 6, 7: the only difference introduced by the later legislation with respect to the organizational structure of EPA, is the making of the Authority accountable directly to the Prime Minister of the FDRE, which was previously accountable to the Council of Ministers.

Authority (herein after, AAEP) has been made to come to picture, forming one of the main environmental institutions in the country having an equivalent status with other regional environmental protection entities²⁰⁰. By making use of this power, the City Government of Addis Ababa has managed to realize the establishment of relevant environmental protection institutions, all with the view to promote and make more accessible its municipal services. The establishment, in 2004, of the Addis Ababa City Government Solid Waste Management Agency and the Sanitation, Beautification and Parks Development Agency, within the Municipality, are cases in point. Later on, in the year 2009 the City Government had adopted a new structural arrangement which results in the creation of these two administrative agencies in a new form. In addition, the structural change made within the city government has given birth to the emergence of a distinct but related solid waste management oriented body known as “Reuse and Disposal Project Office²⁰¹”.

Moreover, there exists a Cleansing Management Office at each sub-city which is mandated to closely deal with the implementation of solid waste management. The City Government has also further established offices which can address the issues of enforcing solid wastes around each locality at the one hundred and sixteen weredas. Also, with a view to foster and facilitate the task of implementing solid waste management rules, has allowed the coming in to picture of around 521 Micro Sanitary Associations (Enterprises) ,which are responsible to gather wastes from households by providing a door to door service²⁰². Other ten Private Organizations are also made to engage in the business of collecting solid wastes especially from big institution within the city including hospitals, factories etc²⁰³.

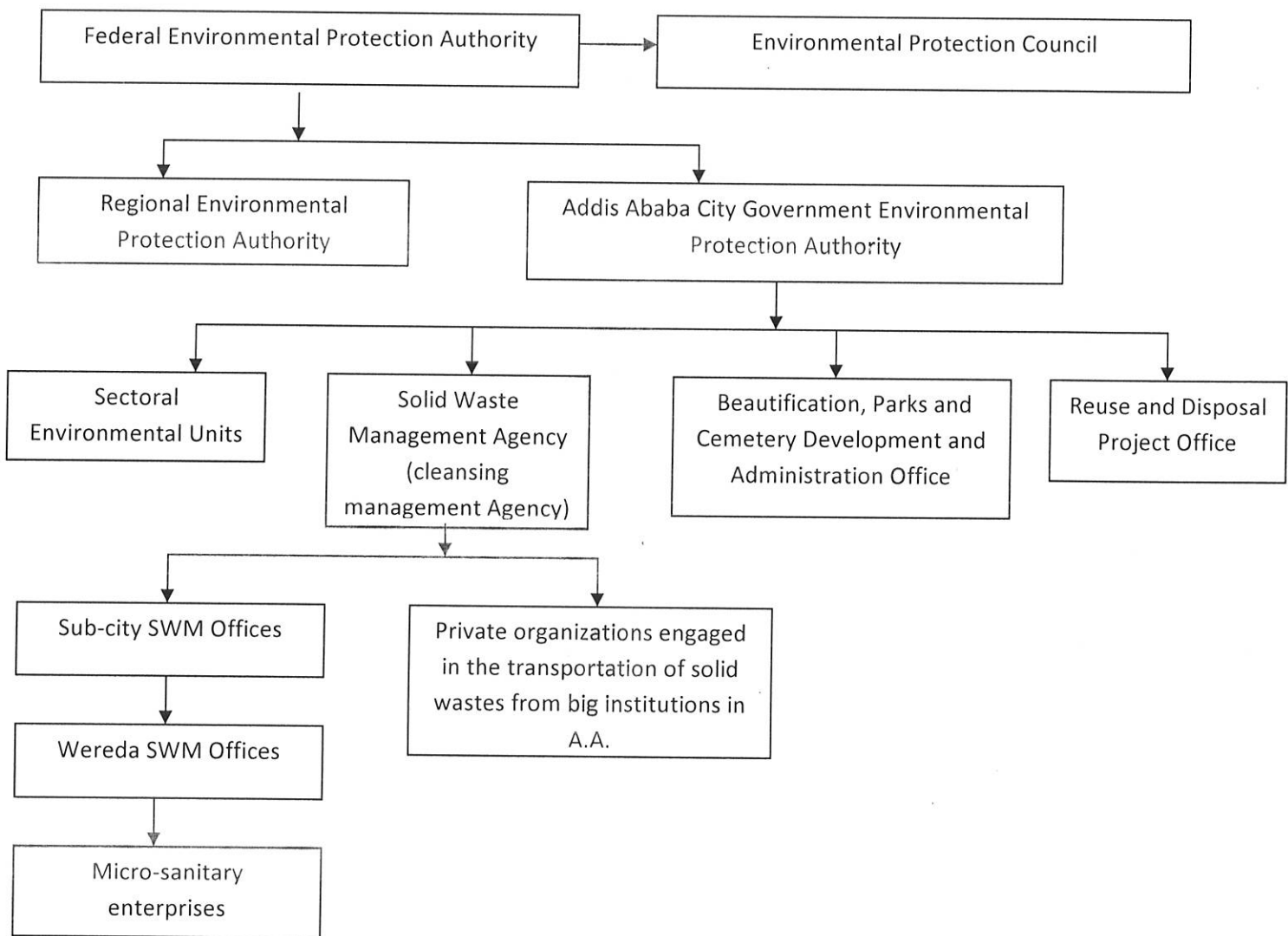
²⁰⁰ Environmental Protection Organs Establishment Proclamation No. 295/2002, see article 2(4),(8), (9) and article 15

²⁰¹ Interview with Ato *Mekonnen Maschal*, Awareness and Contract Case Team Coordinator in the Addis Ababa City Government Cleansing Management Agency, done at his office at 10:30 Monday ,May 30, 2011:- as per the structural arrangement adopted within the city government the solid waste management agency is turned in to “Cleansing management agency, while the sanitation, Beautification and Parks Development Agency is made to be replaced by “ Beautification, Parks and Cemetery Development and Administration Office”

²⁰² Interview with Ato *Ermias Baye*; Addis Ababa City Government Cleansing Management Agency , Communication Affairs Process Owner ,done at his office at 9:55, Monday, May 30, 2011.

²⁰³ Ibid

A Diagram illustrating the general institutional framework for SWM in the A.A. city Government.



4.1.2. Enforcement Approach

Most of the environmental protection laws addressing the issue of solid wastes promulgated both at the Federal and Addis Ababa Municipality level envisioned the applicability of all the three enforcement approaches, namely the criminal, civil and administrative. For instance, Solid Waste Management Proclamation (herein after, proclamation no. 513/2007), Environmental Impact Assessment Proclamation (herein after, proclamation no. 299/2002), as well as the Proclamation to Provide the (Amendment) of the Addis Ababa City Government Qebele Social Courts Proclamation (herein after, proclamation no. 31/2007) have adopted both the criminal and civil enforcement approaches²⁰⁴. Whereas, Environmental Pollution Control Proclamation (proclamation no. 300/2002) and Public Health Proclamation (herein after, proclamation no. 200/2000) appear to uphold the criminal enforcement approach²⁰⁵. On the other hand, the Addis Ababa City Government Environmental Pollution Control Regulation (herein after, regulation no.25/2007) envisage the use of all the three environmental laws enforcement approaches including the administrative enforcement approach within the municipality²⁰⁶. Apart from these, the Waste Management, Collection and Disposal Regulations (herein after, regulation no. 13/2004) have boldly upheld the application of both criminal as well as administrative approaches for the proper implementation of the existing solid waste related legislations²⁰⁷.

However, it is largely said that the use of the criminal and administrative enforcement approaches are being used in a predominant manner so far in the municipality. In most of the cases, those who are found to violate SWM laws are punished by and through the code enforcement personnel scheme, without even reaching the Qebele Social Courts having appropriate jurisdiction for petty offences, administratively by the relevant environmental agency constituted at the Wereda level²⁰⁸.

²⁰⁴ See, Proclamation No. 513/2007, articles 16 and 17, Proclamation No. 299/2002, article 18(1-5), Proclamation no. 31/2007, article 5.

²⁰⁵ See, Proclamation No. 300/2002, the whole of part five, Proclamation No. 200/2000, article 20

²⁰⁶ See Regulation No. 25/2007, articles 21,22 and 23

²⁰⁷ See, Regulation No. 13/2004, article 30, and also see the penalties annexed thereto.

²⁰⁸ note 201 above

4.1.3. Mechanisms of Solid Waste Management

Reduction of solid wastes is recognized as one important means to adequately address the issues of SWM in Addis Ababa. But, so far, the SWM Agency could not be able to implement it. The principal solid waste management system used in Addis Ababa is open dumping or land filling. Almost all the solid wastes to be generated from the municipality are directed to the only landfill site situated within the territory of the Kolfe Keranyo sub city known as “ Koshe Repi landfill site”²⁰⁹. Of course, the Repi landfill site was built some 45 years ago. By the time it was built it had around 40 meters depth and was by then outside the then town of Addis Ababa. It covers around 37 hectare²¹⁰. As such, it can be generally seen that open dumping (land filling), being a major method of solid waste management, is an old and the predominant system put in place as a means to deal with solid wastes disposal in the city. (See Annex 5)

However, the solid wastes which are being collected from different sources in the municipality and brought to the Repi landfill site are the mixture of varying types of solid wastes. As such, a natural need had arisen so as to bring in to picture an additional mechanism of managing solid wastes owing to the reason that the Repi landfill site was about to fill as it served for a time which is close to half a century as well as due to the fact that it was not built in a modern way. Consequently, a work has been under way within the Repi landfill site having the aim of, among others, segregating organic wastes from non-organic ones so as to apply the method of composting thereby increasing the service age of the Repi landfill up until the time when a new landfill site is made available for use. And hence, currently there is a composting site which covers around 460 linear meters in the Repi landfill site along with more than 30 cells for the preparation of compost²¹¹. The process of composting being undertaken is expected to observe the basic rules and procedures so as to effectively deal with the task of SWM. Among others, the Composting Guidelines, issued by the Federal EPA, has managed to provide the proper ways through which composting can be done as well as, as to how and when to opt for the method of composting as a mechanism of SWM.²¹²

²⁰⁹ note 202 above

²¹⁰ *Ibid*

²¹¹ *Ibid*

²¹² Federal Environmental Protection Authority, Guidelines on Composting, 2004

On the other hand, using “incineration” as a means to manage solid wastes in the municipality is not existent in an institutionalized manner as such, so far, for fear that it brings more danger than the benefit to be derived. Nonetheless, incineration is used being limited within and around health care facilities and those institutions which generate electronic waste (e-waste). These institutions, of course, employ their own techniques so as to mitigate the toxic nature of the gas to be emitted to the atmosphere or making it inert through the using of variety of heat levels, though they generally do it in a way which is below the standard that should be observed while incinerating the wastes.²¹³ Besides, recycling and reuse are being used in some instances, though it was not in a formal and institutionalized way as such²¹⁴. For example, in relation to employing the recycling method there is an established trend almost in every corner of the municipality where persons traditionally known as “Quralew” (a term representing those who travel door to door looking for anything old and unnecessary mostly made up of steel, tin can or a bottle to buy it from the owner for a meager cash money). Not only this, old and discarded clothes are being frequently used as a raw material for blanket factories in the city though informally and not in an institutionalized manner according to the information obtained from Ato Mekonnen Maschal.²¹⁵ The SWM Agency has also been engaged in different times to encourage and promote individuals having the interest to involve in the task of recycling through the provision of trainings and extending assistances. (See Annex 5) As a result, though it was not in a formal way, certain intermittent attempts were observed, especially with respect to the use of discarded and damaged plastic bags. As such, an organized effort could not be achieved so far except that there exist certain endeavors on the part of different members of the society especially those involved in commercial activities. The existing practice of soft drink, wine as well as beer factories, with respect to collecting broken and damaged glasses, is a good case in point. Such an activity is also an expected duty of the manufacturers according to regulation no.13/2004. Article 6 of the regulation demands that persons involved in manufacturing and importation have the duty to reuse the materials they use as a wrapping or covering. The other option provided as an alternative is to convert the wrapping materials to a valuable product. However, since such activities are not being done in a formal and institutionalized way the scheme that the law has envisioned by imposing a duty on manufacturers has not been met.

²¹³ note 201 above

²¹⁴ *ibid*

²¹⁵ *ibid*

Generally, except the method of landfill which had been, predominantly, employed as a sole and preferred mechanism for solid waste management, the rest methods are not only at their infant stage but also are being undertaken, if any, in an unorganized, informal and uninstitutionalized fashion.

4.1.4. Bodies Mandated to Enforce Solid Waste Management Laws

In order to realize the successful implementation of SWM, various institutions both at the Federal and Municipality level are made responsible by different laws. Generally, organs which are mandated to enforce SWM laws are basically the Federal EPA, the Addis Ababa City Government EPA, along with its various environmental administrative agencies. In addition to these, various bodies which include: governmental and non-governmental institutions, like police, public prosecutor office, court, private organizations and micro sanitation enterprises can be seen to be tasked with different duties for the proper accomplishment of an effective SWM.

4.1.4.1. The Federal Environmental Protection Authority (EPA)

The Federal Environmental Protection Authority (herein after, EPA) is placed at the apex on the ladder of hierarchy of all types of environmental protecting institutions that are working in the country. It spearheads every undertaking related to the protection of the environment with a view to ensure the prevalence of a safe and healthy environment thereby promoting the well being of human beings. As such, its main mission relates to making available of sound environmental protection oriented laws, policies, strategies and standards²¹⁶. But its role is not limited in discharging these duties only. The authority, among others, is expected to employ its watchful eye so as to make sure that the existing rules and principles aimed at promoting the environment are being effectively implemented²¹⁷.

Generally, the authority is shouldered to discharge certain basic responsibilities in connection to the enforcement of SWM. Its mandates can be expressed in four distinct but related tasks and responsibilities. These are: the initiation and introduction of new environmental laws, the introduction and facilitation of the application of new technologies pertaining to environmental protection, provision of financial assistance to regional environmental administrative agencies,

²¹⁶ Environmental Protection Organs Establishment proclamation No. 295/2002, see article 5

²¹⁷ Ibid

and employing an effective and regular as well as continuous control and monitoring mechanisms on those bodies which are mandated to implement the existing environmental protection laws, including SWM legislations²¹⁸.

With regard to fostering the implementation of proclamation No. 513/2007, so far no legislation (regulation, or directive) or any environmental standard is issued specifically pertaining to the management of solid wastes at the Federal level. The responsibility to deal with environmental protection matters within the metropolis is made to be borne by the Addis Ababa city Government.

The introduction of new technologies relating to the management of solid wastes, as per the information obtained from Ato Mohammed Ali, Director of the Transfer of Technology Directorate in the EPA, certain activities are underway presently. Among others, an effort to introduce new composting techniques and energy producing systems which are being applied at two pilot sites in Addis Ababa are some examples²¹⁹.

In relation to the provision of varying support and assistance to the existing Regional Environmental Protection Agencies to be offered by the Authority are also worth mentioning. Of course, the nature of assistance to be rendered, by the Authority, may appear to either of the following types namely: provision of cash money (financial resource), technical assistance, various trainings to relevant personnel, equipment etc. As per the information obtained from the EPA, the Authority has incorporated the issue of providing assistance to any one of the regional environmental agencies in its programs with a view to extending it to any one of the environmental agencies requiring it in any form. So far, a considerable effort has been exerted by the Authority in connection to building the capacity of the different regional environmental agencies despite the limited resource it has at its disposal²²⁰.

On the other hand, in a bid to discharge its responsibility of ensuring an effective implementation of environmental protection legislations across the nation, certain attempts have been made. The authority previously had been receiving a consolidated annual reports coming from each regional

²¹⁸ Interview with, Ato *Mohammed Ali*, Director of Transfer of Technology Directorate, Federal Environmental Protection Authority, done in his office at 9:00 am, Friday May 27, 2011

²¹⁹ Ibid

²²⁰ Ibid

administrative agency on the basis of which the performance of each region will be evaluated in light of the existing environmental legislations promulgated both at the federal as well as the respective region level. But, nowadays the authority following its adoption of a new working procedure has begun to evaluate the reports of the various regional environmental agencies every five years. And now, the Authority is anticipating to receiving the first environmental report to be prepared and submitted by the various regional environmental agencies. Besides, the Authority conducts a field visit, when it deems necessary, so that a full and tangible information concerning the actual prevalence of environmental progress of a given regions²²¹.

Nevertheless, there are some entrenched obstacles which hinder the Authority from being effective in discharging its legally entrusted responsibilities. For instance, it is not currently in a position to appoint and deal with one of its task of monitoring the actual implementation of the varying environmental protection legislations through the use of “Environmental Inspectors” in a manner provided in the existing laws, across the regions including Addis Ababa²²². As such, owing to such existing limitation in terms of capacity, the various professionals within the Authority are, currently, being used to undertake the business of controlling and monitoring.

Regarding the adoption of directives in relation to managing plastic bags the Authority has failed to have one owing to the reason that the matter is under study, particularly, as its side effects on the overall economic and social situation in the country in relation to other products. Similarly, a directive has not been issued so far in connection to the management of food related solid wastes arising from hotels and restaurants. The authority can be said to have even, been lagged behind in adopting a legislation which addresses the manner and system of managing solid wastes related to glass (bottle) products as well as tin cans in a formal and institutionalized manner²²³. However, apart from the poor endeavor and performance of the Authority, it can be observed that there developed a system within and among the society of Addis Ababa whereby used (old) glass products (bottles) as well as tin cans and similar solid wastes can be collected by persons commonly called “Quralew” for consideration from persons who possessed them. Also certain considerable movements in connection to collecting broken glass products with the principal aim of recycling them are being developed through the initiative of glass and bottle factories.

²²¹ Ibid

²²² See , for instance Environmental Protection Control Proclamation No. 300/2002, articles 7 and 8

²²³ note 218 above

4.1.4.2. The Addis Ababa City Government (Municipality of A.A.)

The Addis Ababa City Government with the intention to properly address the interests of its residents, in all aspects, appears to be the first body to take certain crucial steps, save, within its jurisdiction. Among others, the establishment of relevant and competent entities that work towards the realization of the SWM is noteworthy. In a bid to accomplish this, the City Government has managed to create some important institutions (organs) with the requisite power to deal with the issues of solid waste management. As such, it can be contended that the Municipality has been engaged in the mission of initiating and facilitating the coming in to picture of certain indispensable organs (institutions) destined for the actual task of implementing the various existing legislations pertaining to the management of solid wastes²²⁴. Some of the most pertinent and relevant institutions established by law with the aim of realizing the implementation of SWM laws include: the Addis Ababa City Government Solid waste Management Agency (also known as Cleansing Management Agency), the Beautification, parks and Cemetery Development and Administration , as well as the Reuse and Disposal Project Office.²²⁵

A. The Addis Ababa City Government Environmental Protection Authority (AAEPA)

The city government of Addis Ababa has joined the combat against environmental deterioration, particularly, of the city of A.A, by establishing the Addis Ababa city Government Environmental Protection Authority (herein after, AAEPA). Being dictated by the rules and principles enshrined in the federal legislations dealing with the protection of the environment, the AAEPA, basically, enjoys a regulatory function. As such, it is presently conducting its task of supervising, monitoring the various environmental institutions as well as monitoring both, governmental and non-governmental organizations, factories, institutions engaged in activities that have the potential to damage the environment. Not only this, AAEPA has been exercising its mandate to regulate and control the various environmental organs that are legally entrusted to deal with the

²²⁴ See, generally, the Addis Ababa City Government Executives and Municipal Services Organs Re- establishment Proclamation no.15/2009, *Addis Negarit Gazeta*.

²²⁵ Ibid

power of implementing legislations pertaining to the promotion and protection of the environment both ,enacted at the federal as well as the Addis Ababa City Government level.

The AAEPa, except that its working jurisdiction is limited within the City of Addis Ababa enjoys almost similar power to grant different types of permit for those entities interested to be engaged in activities related to the production and packing, storing, transporting, importing and exporting of some hazardous materials including solid wastes within the metropolis²²⁶. For this purpose the AAEPa is expected to assign a competent environmental inspector which is capable of monitoring and supervising the proper implementation of existing environmental legislation as well as standards pertaining thereto²²⁷.

So far, the AAEPa has managed to facilitate the SWM endeavors mainly through four streams. These relate to environmental pollution controlling, among others, conducting studies pertaining to pollution level of air, river, sound and land within the city, environmental impact assessment on the basis of the principle of prevention, employing monitoring and supervision tasks as well as building technical assistant sections within the authority itself.²²⁸ Besides, the AAEPa has been involved in the actual process of renewal of trading licenses to commercial organizations as the Bureau of Trade and Industry Development of the city of Addis Ababa, makes it mandatory for traders to have the approval of the AAEPa before their licenses are renewed every year.²²⁹ By doing these, the AAEPa has been attempting to contribute towards the realization of a sound environmental protection system in the city. However, all its efforts are observed to be short handed due to both, the inadequate provision of the requisite financial as well as human resources that can enable it to cop up with its duty of enforcing pollution protection related legislations.

²²⁶ Addis Ababa city Government Environmental Pollution Control Regulation No. 25/2007, see article 9

²²⁷ Id, see article 12 and 13

²²⁸ Interview with Ato Mekonin Shibeshi, Legal Affairs Officer, AAEPa, done in his office at 10:00 am, on Monday June 5, 2011.

²²⁹ Ibid

B. The Addis Ababa City Government Solid Wastes Management Agency (Cleansing Management Agency)

The Addis Ababa City Government SWM Agency (also called the Addis Ababa City Government Cleansing Management Agency) is the most pertinent and essential governmental organ in relation to the whole business of SWM within the municipality. It spearheads almost every undertaking to be carried out in the City of Addis Ababa. The SWM Agency, among other things, shoulder three basic responsibilities in connection to the management of solid wastes namely: collecting, transporting and disposal²³⁰.

Despite its deficiency both, in terms of human resource and the requisite equipment, the Agency has been contributing in a significant manner towards the prevalence of a safe and healthy environment in the metropolis. It has managed to sustainably design its institutional plans, programs and strategies and change them in to practice thereby realizing an improved environmental situation particularly in relation to managing solid wastes²³¹. Among many others, the Agency has manifested its commitment, especially, in enforcing the fundamental policies, strategies and laws upheld by both the Federal and the Addis Ababa City Governments.

According to the information obtained from Ato Ermias Baye, Communication Affairs Officer in the Addis Ababa City Government SWM Agency, three main methods are being used by the Agency, with a view to accomplishing its task of addressing the issue of SWM within the metropolis²³². The first means used is, hiring individuals who sweep (clean) and collect solid wastes from streets and major roads in the city. Through this method, three persons are combined to cover an area of two kilometers and the job is made to be done on daily basis, particularly, during the early morning time. Secondly, the Agency has enabled the emergence of a door to door solid waste collecting system where Micro Sanitary Enterprises are engaged in the task of collecting as well as transporting solid wastes from households to communal dumpsters from where government owned waste trucks transport it to the only open dumping (landfill) site of the city. These micro sanitary enterprises provide their services on a zonal basis covering only a certain limited locality. They normally use sacks for collecting solid wastes emanating from

²³⁰ See generally, The Addis Ababa City Government Solid Waste Management Agency Establishment Proclamation no. 15/2001.

²³¹ note 202 above

²³² *ibid*

households. And, thirdly the Agency has made it possible also for the participation of private organizations which collect solid wastes from big institutions within the municipality using their own waste trucks, including from hospitals, factories, etc²³³. As such, the Agency can be seen to exert its best possible efforts so as to meet its responsibility in fostering as well as promoting the overall endeavor to enforce the existing SWM laws.

Presently, the Agency owned 104 waste transporting trucks which are distributed to each weredas that handle the actual task of managing solid wastes in the city. The Agency has been using three types of waste trucks having the same purpose of transporting solid wastes from each locality ,collected within communal dumpsters or sacks, to a disposal site , save, with different capacity of holding (carrying) solid wastes. These are: a communal dumpster carrying truck, a closed waste carrying, and a waste compactor truck, each having the capacity to carry 8.3m³, (there is also with a 15m³ carrying capacity dumpster) 10 m³ and 24m³, respectively²³⁴.

The Agency obtains its financial resources mainly from two sources; budgetary allocation and through collecting sanitation service fees²³⁵ from residents. Even though the Agency's most reliable source of revenue, for conducting its activities, is being generated from its budgetary allocation acquired from the City Government, this is augmented substantially by the income coming from the beneficiaries of the SWM services, in the city. The service fee is, in fact, made to be collected along with the monthly water fee each beneficiary used. Accordingly, for households 20%, for private organizations 42.5%, and for those who use Bono-water service 5% of the bill to be paid is added as a monthly SWM service fee.²³⁶ Pursuant to this system, the Agency has managed to earn or collect monthly average revenue of 4.2 million Birr.²³⁷ The substantial share of this amount is, of course, said to be devoted for the purpose of paying the micro enterprises and private organizations, usually at the end of each month for the service they render in collecting solid wastes. As such, the Agency is obligated to look for other sources for buying equipment like, communal dumpsters and waste transporting trucks²³⁸.

²³³ Ibid

²³⁴ Ibid

²³⁵ Proclamation no.15/2009 no.,55(13)

²³⁶ *Addis Tsidat*, An Annual Bulletin Published by the Addis Ababa City Government Cleansing Management Agency, vol.1, No. 1,2003, p 41

²³⁷ Ibid

²³⁸ Ibid



On the other hand, it is observed that the Agency has gone a step forward in connection to facilitating the task of SWM through the participation of private entities. As per the information obtained from Ato Ermias Baye, the Agency has managed to achieve the contribution of 10 private organization that are engaged in the business of transporting solid wastes as well as 521 micro sanitary enterprises which are involved in the task of collecting solid wastes by providing a door to door service twice a week²³⁹. This, among others, shows the real commitment and endeavors being made on the part of the Agency thereby creating a fertile ground for the promotion and preparation of a conducive atmosphere for further investment in relation to the business of managing solid wastes. Moreover, it is said that the agency has the intention (plan) of handing over the responsibility of dealing with the solid wastes related to the newly built ring roads to private organizations in the near future²⁴⁰.

The Agency is, currently, preoccupied by the task of introducing an integrated solid waste management (ISWM) system within the municipality. With a view to enforcing solid waste management legislations in a manner that can result in a sound and efficient implementation of the rules, the Agency has taken the lead in initiating and dealing with the problem in relation to the absence of a well framed ISWM system. And, in a bid to come up with a solution and devise a workable as well as effective ISWM system, a study has been commenced by professionals from the Agency ,sub city as well as wereda level environmental offices, the Agency serving as a center²⁴¹. Among others, this is expected to bring about an improved and sound SWM scheme to come to picture by and through a system of cooperation and combined efforts as the relevant stakeholders including; police, public prosecutor office, governmental and nongovernmental organizations as well as the public at large.

C. The Addis Ababa City Government Reuse and Disposal Project Office

The Addis Ababa City Government Reuse and Disposal Project Office following its establishment as a distinct entity within the municipality in the year 2009, has been shouldered with the responsibility of dealing with mainly, the two SWM mechanisms namely: reuse and

²³⁹ Ibid

²⁴⁰ Ibid

²⁴¹ note 201 above

disposal²⁴². As such, it is expected to promote and facilitate the existing systems as well as procedures pertaining to the business of collection, storing, and reuse and disposing of solid wastes. Besides, they are mandated to employ sound techniques of controlling and monitoring of disposal, composting activities, within the city, as well as leading the study and evaluating applications of recycling as well as construction of transfer station projects. It also engages itself in activities that encourage those interested in the task of reuse, save in an informal means.

Having these above mentioned purposes in view, the project office is presently designated to own and administer transfer stations as well as reuse and disposal site projects. In line with this, it is carrying out some crucial tasks in relation to the proper administration of these projects. These include ,among others, the reception of solid wastes at the Repi landfill by ascertaining the exact amount of solid waste being brought by waste Trucks, preparation of an area for compost production after the reusable solid wastes are segregated properly from non-reusable ones by the help of some 600 people that are engaged in the task, for economic reasons, the construction of new transfer stations as well as sanitary landfill, along with undertaking certain modification measures on the long operating Repi landfill ,with a view to ensure its healthy functioning²⁴³.

Owing to the size of Addis Ababa, which has increased significantly, as well as the prevalence of a considerable number of micro sanitary enterprises, currently the Repi landfill site is receiving a solid waste amounting from 3000m³ to 3400m³ each day²⁴⁴. Besides, a system is established where the solid wastes entering in to the site will be sorted before they are destined for disposal. As such, a 460 linear meter area for compost production within the Repi landfill has been prepared and more than thirty compost making cells along with the required number of workers for its operation are made available²⁴⁵.

Moreover, the project office has disclosed that an approval with respect to the plan and feasibility study, has been attained from the relevant government authority, as well as an

²⁴² Ibid

²⁴³ Ibid

²⁴⁴ Ibid

²⁴⁵ Ibid

environmental impact assessment report concerning the commencement of a new sanitary landfill project as a permanent (long term) substitute for the aged Repi landfill. The reasons necessitating the replacement of the existing Repi land fill are twofold: the site has served for more than 45 years starting from its service year around 1965 and as a result it is about to fill in addition to its location, presently, at the center of, almost the metropolis in one hand, and owing to its obsolete and rudimentary way of formation, it has caused a considerable pollution on underground water (aquifer) originating from a river flowing in the vicinity to the landfill²⁴⁶. In other words, it lacked the basic features that a *sanitary land fill*²⁴⁷ should have. Consequently, it is said that the construction of a new and modern sanitary landfill around Sendafa area, which is 37 km away North-East of Addis Ababa, at the place known as Chebe Weregenu, is under way²⁴⁸. Besides, an action plan is manifested which heralds the construction of four new transfer stations at the four gates of the city of Addis Ababa, with a view to make available a place where the collected wastes can be segregated as per their nature and type before they are taken to the final disposal area, Chebe Weregenu Sanitary Landfill Site²⁴⁹.

D. Addis Ababa City Government Beautification, Parks and Cemetery Development and Administration Office

The Addis Ababa City Government Beautification Parks and Cemetery development and Administration from one of the major municipality service providing institutions. The Office is set out, principally, to promote and make Addis Ababa known for its beautiful, clean as well as green appearance²⁵⁰. This, in turn, enables the Office to have a significant part in the endeavor towards addressing the problem of SWM within the municipality, though in a limited way.

Being the main focus of the Addis Ababa City Government Beautification, Parks and Cemetery Development and Administration Office in relation to enhancing and making available a clean recreational areas, parks as well as a sustainable cemetery to peoples residing in the city of Addis

²⁴⁶ note 202 above

²⁴⁷ A sanitary land fill, among others, is expected to possess a full or partial isolation so as to prevent leachate infiltration in to the soil or ground water, a formal engineering preparation in relation to its potential environmental impact as well as its final site restoration plan, the existence of permanent control both, during construction and its use, and a planned waste emplacement and covering in order to reduce waste infiltration as well as odors and pests.

²⁴⁸ *Ibid*

²⁴⁹ *Ibid*

²⁵⁰ note 202 above

Ababa, it can be generally contended that it only deals with the issue of solid wastes which are connected to the places that are dedicated for these purposes. As such, its role is, substantially, limited from being involved in the task of dealing with SWM.

Accordingly, the Office has engaged itself in developing some of the selected recreational areas as well as parks with a view to making them green and clean sustainably thereby enabling the residents of the city of Addis Ababa enjoy a comfortable living and working environment. In a bid to accomplish this task, so far, the Office has owned, among others, and is administering around 10 government closed parks, namely: Bihere Tsige ; in the Nifas Silk Lafto sub city, Hamle 19 ; in the Gulele sub city, Ethio-korea Friendship, also known as Afincho Ber; in Gulele sub city, Ambassador park; in Arada sub city, Africa park; in kirkos sub city, France park; in yeka sub city , Teklehaimanot Park; in Lideta sub city, Gofa Park, in Lideta sub city, Ethio-Cuba Park , in Lideta sub city, and Yeka Park, in Yeka sub city²⁵¹.

However, the Office's endeavors towards discharging its responsibilities are not limited to addressing issues of creating a green and clean recreational areas development. It has managed to contribute, among others, towards cleaning of solid wastes found at various places in the metropolis by and through engaging itself in the task of cleaning and making green open areas including; vicinities of rivers and road side parks, thereby facilitating the green development endeavors and helping the city to have an attractive and appealing appearance to live in²⁵².

Moreover, the Office not only toils for the existence of clean and green recreational areas within the City of Addis Ababa, but it also has presently employed a regular and consistent controlling and monitoring mechanism, in place²⁵³. This, among others, has the mission of sustaining the cleanliness, greenness as well as beauty of the already developed areas thereby ensuring the prevalence of green and healthy environment in the city.

In an effort to discharge its functions, the Office has undergone certain organizational changes in the year, 2001. As a result of which, a new working structure is introduced where the Office's service can be rendered at three layers, at the sub city level, at the wereda level as well as at the

²⁵¹ Ibid

²⁵² Ibid

²⁵³ Ibid

Office level, the Office serving as a center for all undertakings related to the development of clean and green areas²⁵⁴.

4.1.5. Public Behavior and Participation in Relation to the Enforcement of Solid Waste

Management Laws

Needless to mention that individual citizens, in particular, and the public at large are the sole and ultimate cause for the existence of solid wastes due to their activities to sustain their life. By the same token, it can be validly thought that human beings in general can play a significant role in enhancing (strengthening) the overall endeavors towards managing solid wastes within a given territorial jurisdiction. This, in fact, can be done, among others, by inculcating the serious concern of environmental protection within the culture of people thereby making it an essential part of their convictions, values and commitments for the prevalence of a sound and effective management of solid wastes.

As such, recognizing the potentially enormous contributions coming from residents of the city, the Addis Ababa City Government has managed to mobilize and undertake certain considerable SWM related tasks. Among other things, the SWM Agency has succeeded in achieving the participation of a significant number of populations, organized at the sub city level, so as to involve in the collection of solid wastes found within their respective territory. Accordingly, in the Addis Ketema sub city 5600 people participated to collect 888 m³ solid wastes, whereas, in the Arada sub city 48,472 people to collect 982m³, in Lideta 19974 people collected 1440m³, in Kirkos 7000 People collected 2000m³, in Yeka 41358 people collected 1803m³, in Bole 15764 people collected 1179m³, in Gulele 18700 people collected 28899m³, in Kolfe Keranyo 8551 people collected 228.86m³, in Nifas Silk Lafto 16,705 people collected 1375m³, and in Akaki Kaliti 1587 people have managed to collect and make ready 963m³ of solid wastes, which is through the contribution of a total of 183,711 people, about 39757.86m³ of solid wastes, in the city of Addis Ababa, are collected during the first nine months of the present year.²⁵⁵

In addition to this, a substantial number of population within their respective sub cities have contributed immensely to the promotion and strengthening of the endeavor towards managing

²⁵⁴ Ibid

²⁵⁵ Cleansing Management Agency monthly Report of for the Month Megabit 2003

solid wastes in the city, in terms of providing and collecting cash money for the purpose of buying extra SWM equipment including: communal dumpsters, dust bins as well as safety protection wears, for those directly involved in the task of SWM, and other hand used materials necessary for same. Consequently, among others, residents living in Bole sub city have made available 54 dust bins ,while Addis ketema 69, Arada 55, Lideta 143, Gulele 207, Kolfefe 39, Nifas Silk Lafito 127 and Akaki kaliti 84 dust bins have been handed over to the SWM Agency.²⁵⁶ Besides, populations residing in three sub cities namely; Yeka, Akaki kaliti and Arada have managed to contribute 3, 2 and 41 communal dumpsters, respectively thereby augmenting the effort of the government.²⁵⁷ With respect to other safety protecting materials including hand glove, face mask, clothes and shoe have also been provided by the contribution of the people living in each of the sub city. With the exception of Kirkos sub city, all the rest sub cities have delivered around 6840 safety protecting equipment, which have the value of 788,805 birr.²⁵⁸

Apart from these contributions, people residing within Nifas Silk Lafto Sub City have collected 4000 birr with a view to construct a plat form (a building for the seat of communal dumpsters located in Wereda 11 of same sub city).²⁵⁹ Other contributions from the public include, among other things, to physically engage in the task of repairing damaged dust bins as well as the fencing of a rivers so as to prevent an illegal discarding of solid wastes. The kolfe keranyo sub city has also contributed a cash asset amounting to 1500 birr, 289 solid waste collecting sacks and 103 soap, all with the purpose of encouraging and enhancing the efforts related to SWM.²⁶⁰ The Bole sub city population, on their part, provided a cash asset reaching 7155 birr to be used for the purchasing of various SWM along with a contribution of 1100 sacks so that they can be used for collecting solid wastes.²⁶¹

However, notwithstanding such kind of participation from the public within each sub city, in the city of Addis Ababa the prevailing situation that one can actually observe seems to tell otherwise. Even though it is possible to appreciate that the city is on its way towards achieving

²⁵⁶ Cleansing Management Agency monthly Report of for the Month Meazia 2003

²⁵⁷ Ibid

²⁵⁸ Ibid

²⁵⁹ Ibid

²⁶⁰ note above 254

²⁶¹ note above 255

an ideal SWM, it appears far away from it looking at the existing situation in the metropolis. Presently, It is not uncommon to come across a pile of solid wastes around many places within the City of Addis Ababa, some of which posing some kind of irritating odor on both pedestrians and the people residing adjacent to it thereby posing a potential health threat to all. The problem of releasing solid wastes in places not authorized by the relevant administrative body is a common phenomenon to all sub cities as the author has proved it through his own observation prior to conducting the present study as well as during a field visit made during conducting the study. (See annex 5) But it can be forwarded that there is a considerable degree of difference among the ten sub cities, especially in terms of the amount of solid wastes to be discarded on an unauthorized places as well as the frequency and type of solid wastes to be found accumulated around public places.

According to the personal observation of the researcher, the public also seem to be reluctant so as to properly make use of places which are destined for keeping solid wastes within a close range area. At places where communal dumpsters are made available in the locality, people are observed to manifest their disinterests to utilize it by putting solid wastes inside the container. Rather, they usually tend to throw solid wastes around the place the dumpster is located ,surprisingly, both when the communal dumpster is filled or there is enough space (emptied) for the solid waste they brought. One of the major reasons for the people not to properly make use of the available dumpster in their vicinity according to the observation of the author, relate to the bad smell (odor) emanating from the dumpster or the solid wastes contained in it ,especially when it is half filled or even when it is not properly emptied. Similar problem also exist in connection to the using of dust bins which are placed along some selected streets or roads within the city. (See annex 5) Even though there exist a shortage of these dust bins residents (people) are not interested to make use of them properly even in areas that they are available. As such ,in places where dust bins are available it is possible to come across a variety of solid wastes being littered (dispersed) over the streets which include, tissue papers, covers of chewing gum and other similar sweets, tickets, as well as other small types of litters. The problem pertaining to the usage of dust bin is not only this. In addition to using them for the storage (disposal) of other types of solid wastes which are big in size and should be discarded to the communal dumpster there is a repeated act of abusing dust bins ,on the part of the public, by and through damaging them by vehicles which normally take a prolonged time for their maintenance. And, nowadays

people are observed to dismantle body parts of the dust bin for their personal interests thereby adding a fuel to the already existing acute shortage of dust bins in the city.²⁶²

On the other hand, the people of Addis Ababa seem to be careless and reluctant in contributing to the endeavor of SWM, seen especially in terms of collecting solid wastes to be generated at household levels by segregating them in accordance with their type and nature so as to help facilitate the task of managing the solid wastes, especially reuse, recycling, and composting. More than 70 percent of the respondents²⁶³ that filled a questionnaire in relation to the question as to their role in discarding and collecting solid wastes at the household level in a way which sorts the solid wastes that are decomposable and those not, responded in the negative. They discard solid wastes either carelessly without taking in to account the need to segregate solid wastes or they do not relate themselves at all to the task of discarding, or not concerned as such. Similarly, more than 84 percent of the respondents²⁶⁴ gave a positive response when asked as to the behavior of the society around their locality in using a river for the purpose of disposing solid wastes both, regardless of the existence of a nearby communal solid waste dumpster or not.

On the other hand, in addition to the participation of the society at an individual capacity for the enhancement of solid waste management, various governmental and nongovernmental organizations have been seen in assisting the overall enforcement of solid waste management endeavors. The support coming from such institutions have different forms including: the provision of cash asset, technical assistances in relation to environmental protection and SWM, provision of various SWM and materials that enable the prevalence of an enhanced SWM as well as the provision of trainings for individuals and institutions engaged in the actual task of managing solid wastes. For instance, in Lideta Sub City, World Vision Ethiopia a civic society organization, has contributed 88 dust bins each having 1400 birr value and 6360 birr to be dedicated for the repair of damaged dust bins ,in addition to making possible the conducting of trainings for 118 micro sanitary institution and other professionals relating to SWM. And, in Gulele Sub City, the Addis Ababa University has contributed an amount of 23, 530 birr for covering the cost of 26 dust bins along with extending an assistance for a full-fledged training

²⁶² The personal observation of the researcher around some localities of the City, see also the pictures taken by the researcher during the research at different places, annex 5

²⁶³ Finding of the research, data obtained through a questionnaire, see annex 2

²⁶⁴ Ibid

regarding collecting as well as managing solid wastes and with respect to sorting out and disposing through recycling of solid wastes for 63 and 57 members belonging to micro sanitary enterprises working in relation to SWM, respectively.²⁶⁵ Besides, in Yeka Sub City, a civil society organization known as GSI Ethiopia has managed to conduct training for around 52 members of micro sanitary enterprises on issues related the management of solid wastes in addition to its provision of a 2000 birr assistance aimed at strengthening the efforts being made within the sub city.²⁶⁶ Moreover, medical institutions known as Bitania and Hulishet Higher Clinics have manifested their willingness to provide a free medical service, for the members of about 18 micro sanitary enterprises, which could arise in relation to conducting their task of managing solid wastes ,especially collecting and transporting to communal dumpsters.²⁶⁷

With respect to the role of the police and public prosecutor in enforcing the laws in relation to SWM in the city of Addis Ababa, much cannot be said. Both, entities contribute very little or no effort towards facilitating the endeavor for the realization of a sound solid waste management. The Addis Ababa police commission has been mandated generally to enforce both the FDRE Constitution as well as other domestic legislations both, at the level of the Federal or Addis Ababa City Government all with a view to ensure the peace and safety of citizens. In a bid to accomplish this responsibility, in fact, police has been entrusted with the power to investigate as well as prevent the commission of petty offences. Not only this, Regulation No 13/2004, clearly stipulates that both regular and traffic police are duty bound to enforce laws relating to SWM. However, this legal power pertaining to police has practically been disused. Presently, members of the Addis Ababa Police Commission hardly discharge their duty to prevent as well as investigate in to petty offences involving violations of SWM legislations in the City of Addis Ababa. The officials are totally devoid of any interest to deal with issues of prevention and investigation of cases pertaining to SWM. This is, of course, due to the predominant conception among the majority of police officials that the issue of preventing and monitoring activities relating to the violation of laws pertaining to SWM are within the exclusive jurisdiction of the Code Enforcement Personnel to be established within the structure of the lower administration

²⁶⁵ Cleansing Management Agency, monthly Report of for the Month Ginbot, 2003

²⁶⁶ Ibid

²⁶⁷ note 255 above

unit²⁶⁸ i.e., the Qebeles (currently, Qebeles have been replaced by weredas). As such, the task of enforcing SWM legislations have been ,practically, precluded from being part of the overall duty and responsibility of the Addis Ababa police commission. However, the code enforcement personnel can legally demand the assistance of the police, if the situations requires, particularly in connection to their effort to prevent an ongoing act of violation SWM laws.²⁶⁹

In the same token, the office of public prosecutor established within the City Government is practically devoid of the power and legitimacy to deal with the issue of enforcing solid waste management legislations before court of law. This is, basically, due to the failure on the part of the Addis Ababa police commission to discharge properly its duty of investigating petty offences in relation to SWM in accordance with article 30(1) of proclamation no.15/2009. As such, the public prosecutor office could not contribute any role in the enforcement of solid waste management in the City of Addis Ababa.

4.2. The Practice of Enforcing Solid Waste Management Legislations in Addis Ababa City

The City of Addis Ababa has underwent considerable changes in terms of the manner of handling of solid wastes following the dissolution of the “Sanitary, Beautification and Recreational Development Agency” that gave birth to the establishment of three separate bodies including the SWM Agency ,which deals fully with the issue of SWM, in 2008. The Agency, in a bid to satisfy the residents of the city thereby discharging its responsibilities through enforcing the laws relating to SWM, has undertaken a number of measures geared towards the implementation of same.

According to the study conducted by the Agency, the daily amount of generation of solid waste in Addis Ababa reaches 6019m³ and the average daily production of solid wastes by each person residing in the city, is estimated about 0.45 kg.²⁷⁰ And, speaking of the major source for solid waste production, it is provided that households contribute 76% of the solid wastes while various institutions, commercial bodies, factories, hotels and other similar entities generate about 18% of

²⁶⁸ Interview with Commander Teowodros Masresha, Addis Ababa Police Commission, done in his office at 3:00 pm, on Friday May 27, , 2011

²⁶⁹ Regulation no.13/2004, see Art.22(2)(b)

²⁷⁰ note above 202

the total waste, and the rest 6% goes to street sweepings.²⁷¹ During the year 2010 the total amount of solid wastes collected from the city was around 1226932m³ out of which 932468.42m³ came from households and residential areas, 220847.76m³ from institutions factories, commercial entities, hotels and embassies and the rest 73615.92m³ solid waste came from street sweeping.²⁷²

As such, by taking in to account the amount of solid wastes to be generated within the city from the various sources, the Agency has been engaged in the actual work of managing solid wastes by and through mobilizing all potential resources that are available to its disposal. Generally, the activities relating to SWM are being carried out at three levels, the Agency serving as a center, the ten sub cities as well as the 116 weredas.²⁷³ In each sub city and wereda level there are sanitary administration offices which facilitate, monitor and control the activities to be undertaken in relation to the management of solid wastes. Presently, the Agency is, among other things, burdened with the task of collecting, transporting and disposal of solid wastes.

With regard to collecting solid wastes from various sources the Agency has employed three means collecting solid wastes from households through micro sanitary associations who collect the wastes by the provision of their services door to door, the collection of solid wastes to be generated in institutions including; factories medical organizations etc ,and through the use of private organizations by using their own waste trucks, and also the use of individuals to sweep streets and public roads being hired by the Agency with a monthly payment.

Micro sanitary enterprises are expected to collect and transport solid wastes emanating mainly from households (and transport and store same at the) to communal dumpsters. They are paid 30 birr for each m³ of solid wastes they collected.²⁷⁴ Whereas, private organizations engaged in the collection and transportation of solid wastes were made to receive a payment of 74 birr for each m³ of solid wastes they have transported to the disposal site.²⁷⁵

The Agency has, currently, employed street sweepers who can collect and transport solid wastes to dumpsters on a daily basis being a permanent employee of the Agency. For this purpose, three

²⁷¹ Cleansing Management Agency monthly Brochure of March 2003 (English version)

²⁷² Ibid

²⁷³ note above 202

²⁷⁴ Ibid

²⁷⁵ Ibid

sweepers are made to sweep in common and collect solid wastes covering an area with a length of 2 km.²⁷⁶ And, as regards the function of private organizations, they are working in the collection and transportation of, especially solid wastes arising from big institutions.

For the proper and effective management of solid wastes arising from the City of Addis Ababa, the Agency is trying its best so as to fairly distribute SWM equipment. Currently the distribution is made on the basis of the population size as well as amount of solid waste to be generated within each sub cities. The operating number of waste trucks being devoted for the task of SWM in the city is only 70 out of the total 104 waste trucks which are owned by the SWM Agency.²⁷⁷ . Thus, it is only 70 waste trucks that are being used each day on average thereby disposing around 3245m³ solid wastes which is an amount less than the daily amount of waste being generated on average, in the city.²⁷⁸

Generally, three different types of waste transporting trucks are being used by the agency which includes: the dumpster carrying, the closed waste carrying, and a waste compactor truck. Each of these has a distinct solid waste holding (carrying) capacity. The first waste truck has the capacity to carry 8m³ or 15m³ solid waste containers dumpster, while the second is capable of carrying 10m³ solid wastes, and also the third one is said to have the capacity to carry about 24m³ solid wastes. (See annex 5)

A system of transporting collected solid wastes for 24 hours, to the disposal site, has also been adopted recently which has the capacity to increase twice the amount of solid wastes being transported for a day previously.²⁷⁹ Of course, the 24 hours transporting schedule normally presupposes the existence or hiring of three drivers for each waste truck which proved to be not feasible under the current situations, due to scarcity of resources.

SWM activities are, presently, being undertaken through the combined efforts of the Agency and the ten sub-cities, mainly, at the level of the 116 Weredas.²⁸⁰ These Weredas closely follow up and monitor, in fact, every solid waste collection and storing in communal dumpsters and the timely transportation of the dumpsters. Not only this, each Wereda is mandated to see to it that

²⁷⁶ note 202 above

²⁷⁷ *ibid*

²⁷⁸ note 265 above

²⁷⁹ note 236 above

²⁸⁰ note 201 above

all the micro sanitary enterprises are performing their responsibilities in compliance with the existing SWM rules.

At present communal dumpsters are made available, of course, arbitrarily depending on the possible amount of solid wastes to be generated within each wereda. There exist a total of 1156 communal dumpsters which are distributed by the Agency, so far, in the City of Addis Ababa. In fact, this is far from the standard requirement of communal dumpsters to be made available in the city, i.e., 3252 communal dumpsters, as per the study made by the Agency.²⁸¹ Speaking of SWM equipment, there only exist 2000 dust bins that are made available across main streets of the city.²⁸² Being installed in places where more flow or concentration of population is prevailing, it can be observed that the distribution is not yet adequate, and even when they are sufficiently made available in certain localities, there is a high degree of reluctance on the part of the majority of residents of varying areas of the metropolis. The standard number of dust bins required to be made available in the city of Addis Ababa is, however, 8005.²⁸³

On the other hand, micro sanitary enterprises which collect solid waste from households using the door to door service conduct their task through the help of sacks and a two legged wheeled container. This helps them transport the solid wastes to the place where the communal dumpster is located. Only the solid wastes collected by using the sacks are stored in the dumpster. However, if the dumpster is filled, they simply keep the solid wastes being contained in the sacks near or at the place of the dumpster so that it waits for the filled dumpster to be replaced. (See annex 5)

4.3. Problems and Challenges in Enforcing Solid Waste Management Laws in Addis Ababa

The enforcement of SWM laws in Addis Ababa cannot be said to have attained its optimal level, though there has been enormous efforts towards implementing the basic rules incorporated in the various legislations through different means. Generally speaking, the attempt to make the City of Addis Ababa a convenient living and working place to its residents, in fact, emerged in 1901

²⁸¹ note 202 above

²⁸² *ibid*

²⁸³ *ibid*

with the establishment of the first municipality which, among others, have the mandate to monitor and follow up the sanitary issues arising in the city.²⁸⁴ Nevertheless, even though the duty of addressing problems related to the management of solid wastes had been fallen within the power of various institutions with ranging structures, a sound as well as sustainable solution could not be brought up until the present time.

In fact, the underlying causes that hindered the existence of effective and efficient solid waste management within the city of Addis Ababa appear to be multifaceted. One of the most striking reasons, however relate to, according to the response obtained from questionnaire respondents concerning the issue at hand, the lack of sufficient awareness concerning the protection of the environment as well as solid waste management on the part of substantial majorities of the respondents.²⁸⁵

On the other hand, it can be validly contended that an acute shortage of resources necessary to properly carry out activities with a view to facilitate the prevalence of a sound SWM in the city also contribute its share. Various bodies entrusted with the responsibility of ensuring an effective enforcement of solid waste management related legislations are not being provided with adequate amount of resources so as to deal with the existing problems, specially seen in terms of the ever increasing economic social and commercial activities along with the number of the residents within the metropolis. Pursuant to the information obtained from Ato Ermias Baye , the Agency in particular and other similar institutions related to the administration of solid waste have faced with a considerable problem regarding the provision of resources both, human and physical resources which are indispensable for the discharging of their responsibilities as well as realization of a sound solid waste legislations both at the national and municipality level.²⁸⁶ Among others, financial problems that can be earmarked to the purchase of crucial SWM equipment are not adequately available. As such, for instance the Agency has only managed to have, presently, 104 waste trucks out of the standard number of trucks needed to address sufficiently the problem related to transporting solid wastes to disposal sites, which is 262 trucks. Besides, communal dumpsters in the city are far below the required standard. This is, of course,

²⁸⁴ note 236 above, at 16

²⁸⁵ note above 262

²⁸⁶ note 202 above

clearly observable by considering the actual distribution of this essential SWM equipment in the city.

The small number of solid waste transporting trucks, in particular has resulted in creating an adverse impact on the overall waste management activities. For instance, due to the lack of adequate number of trucks, solid wastes that are kept in the dumpsters along with additional solid wastes that are made to situate beside and around the dumpsters will be obliged to wait there until the truck is made available thereby resulting in the creation of some undesired effects on the health of the people residing around the dumpsters, in addition to affecting the esthetic value of the environment, where it is situated. (See Annex 5) Of course, the placing of solid waste beside a communal dumpsters usually happen due the placing of a single dumpster in many places (localities) regardless of the amount of solid waste to be generated , owing to the lack of sufficient number of dumpsters. Every Qebele is provided with at least one communal dumpster. As far as the distribution is concerned the applicable rule is to place as many dumpsters as possible in places where the generation of solid waste is higher.

The other reason behind the failure to discharge the responsibility owed by the agency, according to Ato Ermias Baye, appears to be the ill staffed nature of the institution both in terms of professionals and supportive workers.²⁸⁷ In relation to this, the acute shortage of truck drivers within the Agency is worth mentioning. This is mainly because the Agency has failed to recruit and hire sufficient number of truck drivers though they are available in the labor market. This has effectively impeded the full-fledged implementation of the newly introduced 24-hours waste transporting service in the city. As such, it can be validly contended that the Agency could not discharge its mandated responsibilities to introduce an effective and efficient SWM system as dictated under proclamation No.15/2009.²⁸⁸

Apart from these, the absence of a sound as well as organized type of coordinated effort among the bodies empowered to implement (enforce) SWM laws, has significantly affected the effectiveness and efficiency of the endeavors being made within the city.²⁸⁹ So far, there has never been any integration as between and among the various bodies which are mandated to

²⁸⁷ Ibid

²⁸⁸ See the powers and functions of the SWM Agency as enumerated under proclamation no.15/2009, No.55 (3)

²⁸⁹ note 202 above

ensure the proper implementation of SWM related laws, at different levels and capacities. It is only very recently that a serious concern developed, on the part of these entities as an urgent need to employ a valid integrated solid waste management system (ISWM) in the city. In fact, the system, which is being studied at the level of the Cleansing Management Agency by professionals working in relation to the management of solid wastes, found at different levels including: basically, the Agency, Sub City, and Wereda level is said to have taken in to account the roles and the contributions to be extended by various stake holders within the city.

In connection with the making use of the communal dumpsters, the researcher has personally observed that there exists a problem of placing them in areas which are not fairly (reasonably) central to all residents in the locality. As a result, residents are seen to have the tendency not to use the dumpsters located within their locality owing to its far distance and rather inclined to discard solid wastes in the streets and roads, or river banks, when there is one. In addition to this, due to the irresistible odor emanating from the communal dumpsters, residents are reluctant to properly use them by putting solid wastes inside them. Not only these, in relation to transporting solid wastes collected in communal dumpsters by using waste trucks, little or no care is being taken so as to prevent escape of solid wastes on streets having the effects of dirtying the City. This is, of course, due to the fact that the waste trucks use a poor net-like material as a cover which, in fact, has no capacity to prevent the escape of certain solid wastes.

On the other hand, in relation to the failure to timely replace filled dumpsters with an empty one, a problem has been observed. The main problem in this regard appears to relate to the act of some individuals who abuse the filled dumpsters in search of food and things that could be of any value. In fact, such activities have the effect of littering the solid waste in the surrounding thereby aggravating the problem of managing solid wastes. Although wereda sanitary offices have tried their best to control such activities by placing a guard personnel around dumpsters , a solution could not be achieved, basically, owing to the reason that the working hours of the guards to protect the communal dumpsters is only from early morning up to 2:00 pm.²⁹⁰ As such, it can be easily appreciated that the endeavor of the wereda sanitary offices is likely to remain in

²⁹⁰ Interview with w/o Yengus Zewdu, a working guard protecting a communal Dumpster Around kotebe area Yeka Sub-city Wereda 11, done at the place where a dumpster is located Saturday at 11:00 am May 28, 2011

vain as people who are looking for things (goods) or tools of economic interest are left at liberty to abuse the communal dumpsters for the majority of hours of the day.

However, notwithstanding to the above mentioned problems in relation the task of enforcing SWM rules in the City of Addis Ababa, the majority of respondents²⁹¹ who filled the questionnaire, have responded in the negative towards questions relating to the existence of adequate : awareness about solid waste management, solid waste storing places, information as to the existence of laws prohibiting discarding of solid wastes in unauthorized places and the penalty to be imposed on those who violate them. This, indirectly reveals that there is a significant deficiency on the part of the relevant environmental agency to primarily, place adequate solid waste storing communal dumpsters in each locality as well as to propagate in sufficient and convenient manner the basic knowledge and information pertaining to the need to manage solid wastes along with raising the awareness of the society residing in the city by employing the appropriate means.

Consequently, owing to the cumulative effect of those above mentioned reasons and problems, the Addis Ababa City Government has been impeded from succeeding in its responsibility to bring in to picture a sound SWM practice.

4.4. Judicial Enforcement of Solid Waste Management Laws

It is true that courts in particular, and other judicial tribunals constitute an important means through which environmental laws in general and SWM rules in particular can be enforced. Having taken cognizance of this fact, a number of states have managed to establish separate local environmental courts which are wholly devoted to adjudicating matters related to the protection of the environment.²⁹² But, this is not a common feature in all jurisdictions. In the case of Ethiopia, for example, there are no distinct courts which are empowered to entertain cases related to environmental issues only.

²⁹¹ note above 262

²⁹² Nicholas A. Robinson., *Giving Force to Environmental Laws: Court innovations Around the world*, a briefing paper prepared for A Symposium in a relation to Judicial Enforcement Of Environmental Laws, March 12 ,2011, p. 3

4.4.1. Bodies with the Power of Adjudication

According to the proclamation enacted at the level of Addis Ababa City Government to provide for the (Amendment) of the Addis Ababa City Government Qebele Social Courts proclamation No.31/2007, Qebele Social Courts appear to be the body with a primary power to entertain cases involving SWM issues.²⁹³ By virtue of this, among others, they enjoy the power to adjudicate suits involving litigations pertaining to petty offences emanating from the violations of rules aimed at protecting the public health as well as the promotion of sanitation within the City of Addis Ababa. In addition to exercising the power to adjudicate such cases, the court is empowered to execute its own decisions by and through making use of the Police or Code Enforcement Personnel, as it appears appropriate.

Apart from the Qebele Social Courts power to adjudicate cases involving petty offences, the Addis Ababa city Government Administrative Courts, are also empowered to adjudicate cases of petty offences in two capacities. Firstly, the city courts can entertain cases of petty offences, save, in connection to penalties imposed by executive bodies within the city government, thereby acting as a court of execution.²⁹⁴ Secondly, they may also be thought to possess the power to adjudicate cases involving petty offences, to be promulgated possibly by the federal legislator, this time, of course, acting as a trial court.²⁹⁵ However, it should also be noted that, the Addis Ababa city courts enjoy the power to entertain cases involving petty offences, particularly in relation to violations of directives (laws) issued at municipality level, save, by and through using their appellate jurisdiction.²⁹⁶

In so far as the existing practice in connection to the role of the competent court, the Qebele social courts, in enforcing SWM laws is concerned, the judiciary can be generally said to have very little or no contribution.²⁹⁷ To begin with, it is not accustomed as such to bring cases of petty offences relating to the violation of solid waste management legislations. Rather the mandated bodies so as to deal with the issue of instituting a case and bring an action before the

²⁹³ Proclamation no.31/2007, see Article 5(1) and (2), see also proclamation no 361/2003, article 50(2)

²⁹⁴ Proclamation no. 361/2003 , Article 41(2) (d)

²⁹⁵ Proclamation No.361/2003, see Article 41 (2)(b)

²⁹⁶ Proclamation no.31/2007,Article 17(5)

²⁹⁷ Interview with Ato Zewdu Degefa, Registrar in Wereda 11 Kebele Social Court, Yeka Sub-city, done in his office at 9:00 am Wednesday June 1,2011

Qebele Social Court are more interested in resolving the matter outside court rooms thereby setting aside their professional responsibility. In addition to these, petty offences involving violations of SWM laws are only directed to the Qebele Social Courts when the alleged petty offender has declined to accept the penalty to be imposed through administrative ways, by the relevant executive body. It is a rare phenomenon, however, to come across an alleged violator of laws pertaining to SWM, refusing to pay the fifteen birr penalty, in case if individuals and one hundred birr penalty when the violator is an organizations as this would be less troublesome than going to a court. Besides, the penalties provided for in the various SWM legislations appear to be very meager causing virtually no or very little pain on the violator. This, in turn, results in the development of a conception among individuals which are engaged in the facilitation of the enforcement process that the overall endeavor to hold a violator and bring him before court is very expensive than the remedy to be attained, and not worthy enough to be carried out. This conception is also shared by Ato Tadesse Awgichew, a registrar in Wereda 9 Qebele Social Court, Yeka Sub City. It is only one or two cases that could be presented to the court throughout the year, relating to the violation of SWM.²⁹⁸ This is, among others, due to the high tendency of those entities, engaged in the task of bringing a court action and enforce the relevant SWM laws, to make the law silent (toothless) and pursue their own personal interests (economic) alone.

As such, the laws cannot be said to have been enforced for a long time due to lack of interest on the part of the code enforcement personnel. The problem is mainly related to the tendency of the code enforcement personnel to engage themselves more in other activities than ensuring the enforcement of SWM laws. Such activities include illegal constructions from which the code enforcement personnel can easily derive illegal benefits. Consequently, on the basis of the decision of the relevant environmental agency, at the municipality level, the structure of the code enforcement body is made to be dissolved, starting from July 2002 G.C., thereby putting an end to the defective as well as unproductive role they have been playing. Unfortunately, the newly established code enforcement organ both at the level of sub-city as well as the Agency has not been mandated to sufficiently involve in the task of enforcing SWM laws. Their role is, reduced in particular, to conducting sanitary monitoring and supervising activities only thereby denying

²⁹⁸ Interview with Ato Tadesse Awgichew , Registrar in Wereda 9 Kebele Social Court, Yeka Sub-city, done in his office at 10:00 am Friday June 3,2011

their role of enforcing SWM laws at the Wereda level.²⁹⁹ Hence, for these reasons almost no SWM related case has been entertained at Qebele Social Courts, especially starting from the time they are dissolved thereby affecting, substantially, the natural role to be played by Qebele Social Courts in connection to the enforcement of SWM laws within the City of Addis Ababa.

Similarly, courts at the Addis Ababa City Government level can be said, at least in effect, to have been devoid of their power to entertain cases involving SWM issues, by way of appeal from decisions of Qebele Social Courts, owing mainly to the non-existence of cases. According to the information obtained from Judge Keneni Ensermu, a judge at the Addis Ababa City Administration Court, it appears hardly possible to find a SWM related case which is presented before the Addis Ababa City Courts being appealed from a decision of Qebele Social Courts.³⁰⁰ This is, mainly, due to the minimum pain to be sustained by the violator which, usually, fails to motivate any aggrieved person to appeal from the decision given against him/her at the Qebele Social Courts, to the Addis Ababa City Administration Courts.³⁰¹

On the other hand, it can generally be contended that Qebele social courts are also vested with the power to entertain civil cases which are related to SWM issues, provided that the money value of the case is below 5000 birr.³⁰² However, this will be an unwarranted interpretation of the laws dealing, in particular, with the power and jurisdiction of Qebele Social Courts. This is, basically, due to the fact that Qebele Social Courts are established, primarily, with the intention to deal with non complex legal issues thereby acting as a forum where the society can obtain a quick access to justice, save, in relation to cases involving civil matters that do not fall within the jurisdiction of federal courts as well as other judicial bodies.³⁰³ This conception is, in fact, in line with the position held by the Cassation Bench of the Federal Supreme Court, which has the effect of obliging all courts functioning at every level across the nation, serving as precedence, save, and regarding the manner of interpretation followed by the bench.³⁰⁴

²⁹⁹ Ibid

³⁰⁰ Interview with Judge Keneni Ensermu, Addis Ababa city Government Administrative Court, First Instance Court, done in her Office at 3:30 pm, Friday May 20, 2011

³⁰¹ Ibid

³⁰² See proclamation No.13/2007, Article 5(1) and see also proclamation No.361/2003, Article 41(1)

³⁰³ Interview with Judge Almwale Wole, Federal Supreme Court done in his office at 8:30 am, Friday May 20, 2011

³⁰⁴ See Federal Courts Re amendment Proclamation no.454/2005, Article 2(4)

The Federal Supreme Court Cassation division, in an attempt to resolve a case involving a civil suit brought before it relating to the power and jurisdiction of Qebele Social Courts have, among others, rendered a detailed interpretation of the relevant legal provisions concerning the issues raised thereby determining the extent of the actual power and jurisdiction.³⁰⁵ Accordingly, the court has revealed its position, through its reasoning, that the Qebele Social Courts are not naturally endowed with the right to exercise an adjudicatory power to entertain every civil case which is related to property or money claims valuing up to 5000 birr, on the basis of Article 41 (1) of the Addis Ababa City Charter. as well as Article 5 (1) of the Addis Ababa City Government Qebele Social Courts law. The court stipulated in its reasoning that Qebele Social Courts are not eligible by law to deal with all types of civil litigations involving an economic value of 5000 birr or less. And hence, concluded by saying that they should be limited in adjudicating cases of civil matters, if and only if the nature of the issue is not complex as such entailing a detailed analysis of the law for the purpose of resolving the case brought before them.

4.4.2. Persons with the Requisite “Locus Standi”

The Proclamation to Provide for the (Amendment) of the Addis Ababa City Government Qebele Social Courts Proclamation No.31/2007 is clear in stipulating the need to possess the required legal right for any person before embarking up on instituting petty offence cases involving a SWM matters. As such, it is only persons who are designated by the relevant legislation that can institute a suit of petty offence before the Qebele Social Courts. This, among others, has the effect of restricting the type of person made eligible by this particular legislation. Besides, it can be thought that limiting the type of persons that qualify for bringing an action before a court of law would have the consequence of, through time, affecting the basic right of citizens to a safe and secured environment.

Basically, the actual practice within the Qebele Social Courts in connection to instituting a case of petty offense involving SWM issues dictate that only two bodies are endowed with the legal right to bring an action before the court, against any person violating the rules already put in place. These are; the code enforcement office (which are defunct currently) and the public health office to be established within each sub city. Hence, these two entities can be validly assumed to

³⁰⁵ See Agricultural Materials and Techniques S.C.C. Vs Ethiopian Insurance Corporation Cassation file No.52041

have the required *locus standi* to bring an action before court of law, i.e., Qebele Social Courts, thereby acquiring the necessary vested interest or right to participate in the litigation in relation to SWM. As such, government administrative bodies, as opposed to members (individuals) of the society are entitled to come up with petty offense cases, before Qebele Social Courts, relating to the violations of SWM laws. In fact, these two bodies have not been as such active in exercising their right to bring a SWM case before the Qebele Social Courts thereby contributing to a low enforcement of the relevant SWM law.

This, of course, has the effect of making the overall enforcement endeavors that are being made so as to effectively and efficiently implement SWM laws, dependent on the performance and capacity of these two entities.

4.4.3. Legal Remedies Available

Various legal remedies can be thought in relation to environmental suits. Different countries adopt the provision of remedies with varying nature and characteristics. Some of the most common legal remedies to be given by courts as a response to environmental suits include: order to halt any illegal action being perpetrated, order for the taking of direct specific measures (which, among others, include; the provision of compensation for the wrong done, and imposition of obligation on the transgressor of the relevant law, to avoid any harm caused), as well as the imposition of fine or imprisonment as a form of penalty on the violator.³⁰⁶

The predominant form of remedy to be provided by Qebele Social Courts, nowadays, in Addis Ababa City is the imposition of fine as a penalty to the petty offence committed in relation to SWM legislations.³⁰⁷ As opposed to this, of course, the relevant legislation, proclamation no. 31/2007 in particular, has clearly awarded the discretion to render decisions involving, among others, orders having the effect of obliging violators, to avert any damage caused, to clear (clean) the place or area affected by the solid wastes as well as imposing both, fine and imprisonment of a temporary nature, possibly under the custody of the police. From among these legal remedies, the actual practice demonstrates that the competent Qebele Social Courts to adjudicate SWM

³⁰⁶ Dinah Shelton and Alexander Kiss, *Judicial Handbook on Environmental Law*, United Nations Environmental Program, 2005, p.53

³⁰⁷ Interview with Ato Zewdu Degefa and Ato Taddese Awgichew, see note 297 and note 298 above, respectively.

cases tend to apply only one of these remedies, namely the imposition of fines, in their attempts to resolve or adjudicate the case before them thereby responding to the issues of SWM.

On the other hand, remedies relating to or emanating from civil suits in connection with SWM issues do not seem to appear as remedies to be drawn from Qebele Social Courts (see the discussion under section 4.4.1). However, this is not at any rate meant to convey the message that civil remedies in relation to SWM issues are impossible to be rendered by any court in the City of Addis Ababa. Federal Courts having the required material jurisdiction can adjudicate these civil cases related to SWM, resulting in the provision of various remedies, especially, with respect to money claims pertaining to compensation.

4.4.4. CASE ANALYSIS

In addition to the administrative organs specifically tasked with enforcing SWM laws, judicial organs of the City Government have also their own respective role in achieving same objective. This can be observed by having a look at few cases decided by Qebele Social Courts (recently renamed as Wereda Social Courts) of the Addis Ababa City Administration. Two of these cases which are decided particularly, by the “Luke Qebele Social Court”, will be presented, briefly, in the forthcoming section, with the view to provide readers the chance to familiarize themselves with the actual practice.

CASE ONE³⁰⁸

In the Yeka Sub City Hygiene and Health Office Vs Ato Anuar Temam Case, the defendant was charged with violation of Articles 3 and 9 of Waste Management, Collection and Disposal Regulation No. 13/2004 of Addis Ababa City Government for littering solid wastes generated from the organization, in addition to other provisions of same legislation, which includes the release of poisonous and hazardous wastes in an unauthorized place. Of course, the defendant had pleaded guilty and was fined by the court with 200 birr. However, the court has erred in determining the amount of penalty pursuant to the penalty schedule found annexed to Regulation No. 13/2004, No. 1 and 29, littering mismanagement of wastes emanating (related to)

³⁰⁸ Yeka Sub City Hygiene and Health Office Vs Ato Anuar Temam Case, file No.0043/02, Yeka Sub-city Luke Kebele Social Court

organizations, and releasing poisonous and hazardous water in an unauthorized places are made punishable with 30 birr and 7000 birr, respectively.

As such, when the judgment (decision) of the Wereda Social Courts is assessed (seen) in light of the penalties provided under the “penalty schedule”, one can easily be discerned that what the court has imposed on the defendant as a penalty, on the person who violated the Regulation can be considered as unfair without a valid legal ground as well as, by far less painful than what the penalty schedule actually dictates.

Thus, such kind of gross disregard to the relevant existing law, by the court, and to the penalty schedule attached thereto clearly manifests, among others, the poor role being played by the judiciary in the enforcement of the laws relating to SWM. Such acts of the court would obviously, not only affect adversely the enforcement of SWM legislations, but also weakens the overall effort and endeavors being geared (extended) towards the protection of the environment in the City of Addis Ababa.

CASE TWO³⁰⁹

In similar way, the same court has encountered with the responsibility to enforce a SWM provision embodied in the same Regulation No. 13/2004, with a view to adjudicate it.

In the Yeka Sub City, Wereda 11 Luke Code Enforcement and Controlling Process Vs Taye Engida Case, the Court, in a way correcting its mistakes made in the previous case presented above, fined the defendant with one hundred birr for the petty offence of dumping old cars, corrugated sheets of iron, sand, and oil, in accordance with the penalty schedule no 5 reversing the decision of the Code Enforcement, which required the defendant to pay 500 birr on the basis of penalty schedule no. 17 of the same Regulation. In fact, the latter penalty is appropriate to be imposed on the defendant, had he dumped (or charged with the offence of dumping) wastes and soil generated in relation to demolition and construction works in a forbidden place.

In the case under consideration, however, nothing has been said which shows that what has been dumped by the defendant is, clearly, the result of construction or demolition works. In the

³⁰⁹ Wereda 11. Code Enforcement and Controlling Process Vs Taye Engida Case, File No.0001/02 Yeka Sub-city wereda 11 Luke Kebele Social Court

absence of this condition, it would be unlawful to punish the defendant with a fine of 500 birr. Taking this fact in to account, the court reduced the punishment to a fine of 100 birr.

As stated above, the case was initiated by the Qebele's (now Wereda) Code Enforcement organ of the administration. As things stand currently, this organ has been dissolved around ten months ago. And, following the dissolution of this code enforcement process unit, which plays a crucial role in the enforcement of SWM laws in the city, cases of petty offences related to SWM laws have, totally, been abandoned to be brought before the wereda social courts, even after they are made to be organized under the Solid Waste Management Agency and function within the control of each Sub City. Hence, currently, it can hardly be forwarded that the SWM related laws are being duly enforced by using the judicial avenue, at the level of Wereda Social Courts.

CONCLUSION AND RECOMMENDATION

Conclusion

Addis Ababa is a city which possesses the accolade of being a capital to the whole nation. Capital cities are expected, inter alia, to be exemplary and pioneer towards the rest parts of the country, with regard to socio economic development concerns, in particular.

Both the FDRE and the Addis Ababa City Government have managed to enact relevant and appropriate legislations pertaining to SWM. Environmental administrative organs that are mandated to enforce SWM legislations are observed being engaged in the task of implementing provisions incorporated within the existing SWM laws. Yet, their efforts fail to attain the required result bringing only an improvement of nominal nature. As such, Addis Ababa is far away from being a place with a sound and effective SWM practice. In fact, the main reason for the failure to achieve a proper enforcement of the existing SWM legislations in the City of Addis Ababa is heavily linked to the degree and effectiveness of measures being applied.

Among others, the present work had been, primarily, set out to investigate in to the real issues revolving around the enforcement of SWM laws in the city of Addis Ababa. Consequently, it was the utmost concern of the research to reveal the root causes that gave birth to the hypothesis which purports the absence of efficient and effective enforcement of SWM legislations so as to realize a sound SWM practice in the city. In line with same, the finding of the research revealed that the enforcement of SWM laws in Addis Ababa is far behind the optimal level. Even if the City Government of Addis Ababa has managed to undertake multifaceted measures to bring about a substantial change, the result achieved, in fact, remained to be insignificant, owing to certain compelling factors.

The first fundamental factor which has impeded the realization of an effective and efficient enforcement of SWM laws appears to be the existence of a minimum or inadequate understanding or awareness about the need to protect the environment in general, and practice SWM ,in particular. Let alone the specific provisions dealing with SWM, the general perception regarding the need and importance of protecting the environment in sustainable manner is lacking on the part of the public at large. This, in fact, is attributable, among others, to the failure

of the concerned body entrusted to design and launch, a permanent and regular awareness raising programs pertaining to the management of solid wastes.

On the other hand, the budgetary allocation for the purpose of addressing issues and problems related to SWM is simply too meager to provide a full-fledged municipal sanitation service. As such, it appeared hardly possible to enforce, in the strict sense of the term, the laws without there being a sufficient and timely provision of the required resources made available to the body designated to deal with the task and responsibility of implementing the laws.

Besides, the absence of an integrated SWM system, especially among the various entities which are vested with the power to enforce SWM laws has also adversely affected the endeavor for the prevalence of an effective and efficient SWM in the city. Federal Environmental Agencies, the Addis Ababa City Government Environmental Offices including; the Cleansing Management Agency, the Reuse and Disposal Project Office, the Beautification, Parks and Cemetery Development and Administration Office, the Sub City Sanitation Offices, Wereda Sanitation Offices, Private Organizations as well as other stakeholders and the public at large, are observed to lack a means which coordinates their individual efforts thereby impeding them from producing a meaningful contribution towards bringing a sound and efficient SWM within the city through the effective enforcement of the existing legislations. Moreover, the irreplaceable contribution of the public at large could not be achieved in a manner which is continuous and sufficient. The efforts to be exerted, on the part of the public, towards enforcing the laws pertaining to SWM appear to be short lived and a onetime phenomenon.

Thus, it appears to be difficult to assess properly the efficiency of the existing legal framework relating to management of solid wastes. The city lacked the requisite capacity so as to fully implement the already existing SWM legislations. In other words, the prevailing practice in the City lags behind the law. And hence, it can be deduced that a lot of task is remaining for the City Government of Addis Ababa along with its various environmental administrative agencies with respect to realizing an effective and efficient SWM practice in the city.

Recommendations

The concern for the protection of the environment as a whole and the promotion of an effective SWM, within a state is, by any standard, no less important issue than the concern for development. As such, in order to bring about a sound enforcement of SWM legislations thereby facilitating the growth and development of the City of Addis Ababa along its people, among others:

- The Federal and the Addis Ababa City Governments along with their various environmental agencies should manifest a firm commitment and exert their at most effort, with a view to fully enforce the existing SWM laws.
- The relevant environmental agency within the City should raise public awareness and should attain the supportive attitude of the people by making legislations enacted in connection to the management of solid wastes easily accessible. The City Government of Addis Ababa need to adopt certain workable policies and strategies geared towards the management of Solid Wastes to be generated from households.
- The City Government of Addis Ababa has to employ a mechanism by which both formal and informal types of trainings and educations relating to the laws and techniques of SWM can be propagated to the different members of the community in a continuous and sustainable manner. The media, schools, and the different forums existing within the community including: associations as well as traditional institutions such as *Eder*, *Ekub*, Religious as well as Professional Associations or Clubs should be used.
- Both the Federal as well as the Addis Ababa City Government should also express their commitment and convictions towards the enforcement of SWM laws, basically through three ways. These include:
 - a) Establishing competent and relevant bodies which can aggressively ensure the proper enforcement of the SWM laws,
 - b) Employing a strong and viable mechanism that function in a regular manner so as to properly control and monitor the implementation of SWM laws by those bodies entrusted to enforce same along with preventing the commission of petty offences, and

c) Allocating sufficient budget for those organs that deal with the actual task of SWM.

- The Addis Ababa City Government SWM Agency need to resort to other means of generating financial resources so as to strengthen its capacity of enforcing SWM related laws. Among others, it should adopt some strategies including: the issuance of environmental bonds, the use of loans (both from domestic as well as foreign sources), establishment of an environmental fund, all with a view to finance its activities.
- Penalties to be imposed on violators of SWM laws should be reconsidered with a view to make them more painful so that they can achieve the purpose they are supposed to serve.
- The City Government of Addis Ababa should incorporate provisions allowing private individuals to bring an action before court of law, pertaining to the violations of SWM so as to increase the probability of enforcement of same, within the city.
- The City Government of Addis Ababa should introduce various mechanisms which are geared towards the provision of incentives for those private organizations interested to be engaged in the business of SWM. The 30 and 74 birr payment for each m³ of solid wastes to be collected by the micro sanitary enterprises and private organizations, respectively, should be increased so as to make the venture more profitable and attract as many as possible organizations to involve in the task of SWM.
- The SWM Agency, as the most pertinent institution responsible for the administration of solid wastes to be generated within the municipality, must design and quickly introduce/ a sound and a workable integrated solid waste management system (ISWM) to be applicable in the City.

And finally, failing to come up with and fulfill the circumstances mentioned above,

- The Addis Ababa City Government is recommended to hand over the business of dealing with the management of solid wastes to private organization (investors) thereby privatizing the whole venture, save, retaining its regulatory power and function so as to ensure the proper enforcement of the laws pertaining to SWM in the City.

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Interview with, Ato Mohammed Ali, Director of Transfer of Technology Directorate, Federal Environmental Protection Authority, done in his office at 9:00 am, Friday, May 27, 2011

Interview with, Ato Mekonnen Shibeshi, Legal affairs Officers, the Addis Ababa City Government Environmental Protection Authority, done at his office in 10:00 am, Friday May 27, 2011

Interview with W/o Yenigus zewdu, a Working Guard Protecting a Communal Dumpster Situated Around Kotebe area, yeka Sub city woreda 11, done at the Place where the Dumpster is Located Saturday at 11:00 am, May 28, 2011.

Interview with Ato Zewdu Degefa, a Registrar in the Wereda 11 Qebele social Court, Yeka Sub City, done in his Office at 9:00 am Wednesday June 1, 2011

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- 10.** Which enforcement approach is adopted in order to enforce the laws on solid waste management in A.A.?
- Making perpetrators responsible for their acts/criminal approach/
 - Making perpetrators pay compensation for the damages they have caused/civil approach/
 - Taking administrative action on the perpetrators/ administrative approach/
 - All approaches are being applied
 - I do not know
 - Please mention, if there are any approach that are adopted other than those mentioned above _____
- 11.** Which method or mechanism is applied by the municipality to dispose solid wastes?
- Burning the solid waste (incineration)
 - Burial of the solid waste (land filling)
 - Composting
 - Re-use
 - Recycling or recovery
 - All
 - Mention, if there are other option than the above mentioned method _____
- 12.** Which organ/institution/ is specifically responsible for carrying out solid waste management in the city of A.A?
- Federal Government
 - A.A City Administration
 - The residents of the city
 - NGOs
 - All
 - Mention if you think other than the above mentioned options _____
- 13.** What is the level of the effort being exerted by the Federal Government as far as the execution of the laws on solid waste management in A.A. is concerned?
- High
 - Low
 - No effort
 - I do not know
- 14.** Who is playing the main role in enforcing the laws on solid waste management in the city of A.A.?
- Environmental protection Authority
 - The Municipality of the city of A.A.
 - Ministry of Health
 - The Federal Government
 - The residents of A.A.
- 15.** Please mention the contribution of the organ you chose above (for question no 14) in one a statement _____
- 16.** How do you measure the enforcement of the laws governing solid waste management in the city of A.A?
- It is good
 - The laws are being enforced in a low level
 - It is very good
 - It cannot be said that the laws are being enforced properly
- 17.** If your answers for question number 8, 9 and 16 are not in the affirmative, what do you think are the challenges /problems/ for not properly enforcing the laws related to solid waste management in the city of A.A?
- Absence of sufficient legal frame work
 - The poor level of awareness of the residents of the city on solid waste management

- C. Lack of sufficient capacity (Incapacity) to enforce the laws or the lack of adequate resources like finance, skilled personnel, materials etc
- D. Lack of enough /sufficient/ concern on the issue on the part of the city administration
- E. Lack of cooperation /integration of efforts/ among the organs responsible for the enforcement of the laws
- F. All
- G. If you think there are other reasons please mention _____

18. How do you see the role of the courts on the proper enforcement of the laws on solid waste management? (when the courts are evaluated practically)

- A. Very high
- B. Very low
- C. Medium
- D. they do not have any role at all
- E. I do not know

19. How do you evaluate the role of the police in the enforcement of the laws on solid waste management (practically evaluated)?

- A. High
- B. Low
- C. I do not know
- D. seldom (sometimes they enforce sometimes they do not)

20. How do you evaluate the role of the public prosecutors on bringing the perpetrators as regards the laws on solid waste management to court of law?

- A. Low
- B. High
- C. Never give concern for such crimes
- D. I do not know

21. What are the main challenges to bring the perpetrators of petty offences as regards laws of solid waste management to court of law and to take legal measures, both civil and criminal action?

- A. Failure to institute a suit (individuals, organization or public prosecutor)
- B. Courts not taking serious actions (for instance rendering very minimum punishments which fails to make feel violators the pain for the wrong done).
- C. The fact that even the punishment that is provided by the law is minimum.
- D. Lack of awareness by courts (judges) on the importance of environmental protection and related issues.
- E. The fact that the organs that are endowed with the power of bringing (instituting) a suite/a case are limited.
- F. The court fee to institute such a case is very high.
- G. The legal remedies given by courts are not satisfactory.
- H. Failure of the organs that are entrusted with such power to use their powers appropriately.
- I. All
- J. Mention if you think there are other reasons _____

22. Are there civil or criminal cases you know which are decided by courts in relation to the breaching of laws of solid waste management?

- A. Yes, I Know cases
- B. There are no cases I know, so far
- C. I never heard of such thing

23. If your answer for question no. 22 is Yes, please mention the court, the parties in the case and the main issue in the case _____

24. Do you have any comment/suggestion/ as far as the solid waste management practice of A.A is concerned _____

II. A Questioner to be filled by Addis Ababa City Residents

The questionnaire is part of the methods employed by the researcher for the collection of data for the research that he is doing in partial fulfillment of a master degree in law. The objective of the research is mainly to deal with the execution of laws and regulations on solid waste management in the city of A.A. Hence, any suggestion or recommendation that will be given by respondents shall only be used for the purpose of the research and also the identity of all respondents of the questionnaire will be kept confidential and will never be disclosed to anybody. The researcher would like to thank the respondents, in advance for taking the trouble of filling this seemingly long questionnaire.

Instruction:- 1. Circle only one of the options given for each question (But if you really feel that more than one option can be an answer, you are at liberty to circle other options too)

2. You are kindly requested to answer the question with best care, answer only the questions you are sure with, and in case you think you are not sure about the meaning of the question or the options provided, please feel free to write what you think using statements.

1. Sex
A. Male B. Female
2. Educational Background
A. Elementary B. Secondary C. Certificate D. Diploma E. Degree
F. Masters degree or above
3. How long have you been in Addis?
A. Less than a year B. Less than three years C. Less than five years
D. More than five years E. More than 10 years
4. How do you rate/evaluate/ the level of your awareness towards environmental protection
A. Low B. Medium C. High D. I do not have any awareness
5. What about your awareness of Solid Waste Management?
A. Low B. Medium C. High D. I have no idea
6. How do you rate the Solid Waste Management in A.A?
Very low B. Very good C. Low D. Good
7. Who do you think is mainly responsible for Solid Waste Management?
A. Every resident of the city/every individual/
B. A government organ entrusted with such responsibility
C. NGOs
D. All
8. Which specific solid waste takes the lion's share of the contribution from the total solid wastes in the city?
A. Paper

- B. Plastics and plastic bags
 - C. Pieces of metals and cans
 - D. Glasses
 - E. Left over(food) from domestic households
 - F. Wastes related to demolition of buildings and constructions
 - G. All
 - H. Others (please mention) _____
9. What do you think is the main challenge in the city of A.A. as far as Solid Waste Management is concerned?
- A. Lack of awareness and cooperation from the society at large
 - B. The responsible government organs are not doing to their level best.
 - C. The absence of a sound legal framework.
 - D. Absence of necessary dumping sites/ adequate communal dumpsters/ for solid waste.
 - E. All
 - F. Please mention if you think there are other problems _____
10. The problem in the city of A.A. with regard to Solid Waste Management is mainly related with
- A. Collection and storing of solid wastes
 - B. Transporting the solid waste to its final destination/disposal site/
 - C. Disposal of the solid waste
 - D. all
11. Do you know about the existence of laws that deal with Solid Waste Management and not observing these laws entails a punishment?
- A. Yes, I now
 - B. No, I do not know
 - C. I am not sure
12. Address:- Sub city _____
Woreda/kebele _____
13. Are there enough solid waste communal dumpsters in your village?
- B. Yes
 - B. No
 - C. I do not know
14. Are the dumpsters being replaced /the solid waste being taken away/ timely when they are filled?
- B. Yes
 - B. No they are being over loaded and spill over around the dumpsters
15. Do people in your village use a river in the village (if any) for disposing solid wastes
- B. Yes
 - B. No
 - C. sometimes
16. Do you know disposing of a solid a waste out of the specified places (communal dumpsters) in a manner that jeopardize the public health is punishable by the law with a simple imprisonment starting from a month to 3 years and fine from 1000 birr to 9000 birr?
- A. Yes
 - B. No I do not know
17. Do you take the solid wastes to the specified dumpsters by segregating the wastes that can be reused and those that cannot be?
18. If you have any suggestion and/or comment with regard to Solid Waste Manangement in A.A, please write it briefly.-----

Annex 2

General Profile of Respondents

Table 1: Professionals Vs Residents Composition

Type of Respondents	Number of Respondents
Professionals related to enforcing SWM	48
Residents	30
Total	78

Table 2: Male Female Sex Ratio

Type of respondents	Male	Female
Residents	24	6
Professionals	28	20
Total	52	26

Table 3: Educational Background

	Primary level	Secondary level	Certificate level	Diploma level	Degree level	Masters level and above
Residents	0	1	3	6	17	4
Professionals	1	2	1	4	28	12

Table 4: Length of years lived in Addis Ababa

Number of Years	More than 10 Years		5 years and above		3 years and below	
	Professionals	Residents	Professionals	Residents	Professionals	Residents
	34	27	6	2	8	1

Table 5: Sub city Distribution

Sub city Distribution	Gulele		yeka		Bole		Arada		Nifas silk lafto		Lideta		kirkos		kolfe		Addis ketema		Akaki kality	
	Res	Prof	Res	Prof	R	P	R	P	R	P	R	P	R	P	R	P	R	P	R	P
	7	8	6	9	7	10	3	8	3	1	2	1	2	2	1	3	1	1	1	1

Table 6: Awareness level of SWM

Awareness level concerning environment as well as SWM	High	Intermediate	Low
Residents	7	20	3

Table 7: Enforcement level

Performance or enforcement level of SWM	High	Medium	Very low
Residents	0	4	26
Professionals	1	8	39

Table 8: Main Problem in enforcing SWM laws

Main problem in relation to SWM (enforcing)	Low awareness on the part the public about SWM	Inadequate legal frame work	Lack of commitment and coordination on the part of bodies mandated to enforce SWM laws	Lack of adequate Resource	All
Residents	8	0	2	0	20
Professionals	10	2	9	11	16

Table 9: knowledge of SWM laws and penalty

Do you know existence of SWM laws and penalty?	Yes	No
Residents	12 (only 2 of them know the seriousness of the penalty)	18

Table 10: Proper distribution of Communal dumpsters

Is there proper distribution of communal dumpsters in localities and timely replacement	Yes	No	There exist, but no timely replacement	Do not know
Residents	4	22	2	2
Professionals	7	32	6	3

Table 11: Role of courts, public prosecutor office and police

Role of courts, public prosecution office and the police in enforcing SWM laws.	High	Low or Rarely	No or very insignificant	Do not know
Professionals	1	5	32	11

Table 12: The use of Rivers for Solid Waste Disposal

Using Rivers for disposing solid Wastes	Yes	No	I don't know	No River Available
Residents	22	3	2	3
Professionals	44	3	0	1

Table 13: Segregating and disposing solid wastes at household level

Do you properly sort solid wastes and dispose them at household level	yes	No
Residents	9	21

N.B: The term “professionals” for the purpose of this questionnaire analysis include judges, police officers, public prosecutors, Workers of federal EPA, A.A. city Government EPA, cleansing management agency beautification, parks and cemetery development and administration office ,as well as reuse and disposal project office.



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ቁጥር 04/0/100.0048/02

ቀን 19/02/2002

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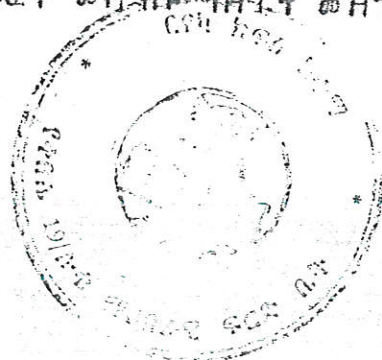
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ባቀረቡት የደንብ ውጤቶች የክስ ለቤት ለተከላከለ የክስ ለቤት ከነ
ወጥሪያው የደረሰው ሲሆን ተከላከሎ ወለላቸውን በቋላ ይዘው ተርባላ:
ተከላከለ በወለላቸው ለገዳሰረዳት ከህዝብ ያቀረቡት ክስ ያጠፋ ለገና በቀጣይ
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ያጠፋ በጠሆኑ ሰጠዳት ጥፋት የሆነን ቀጣት ብር 200/ ሁለት ወቶ ብርጃ
ይከፈሉ በግለሰብ በጠፋ ደምፀው ወሰናል::

ተ ለ ዘ ዘ

ተከላከለ ቀጣትን በሐፋጣ ይከፈሉ ለሆነን በግለሰብ የግለሰብ ለካል
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ቁጥር የግ/ክ/ከ/ጤ/ፍ/ክ/ቤ/ገ/1/343/2002
ቀን 09/02/2002

በየካ ክ/ከተማ አስተዳደር

ቀበሌ 29/ክቆ ማኅበራዊ ፍርድ ቤት
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ከሣሽ :- የየካ ክፍለ ከተማ አስተዳደር ጤና ጸ/ቤት

ተከሣሽ :- አቶ/ወ/ሮ/ወ/ት ከንዳር ተሳፍን ከንጉሳ
የ ጽሑፍ ቤት

አድራሻ:- አዲስ አበባ የካ ክ/ከተማ ቀበሌ 19/ክቆ የቤት ቁጥር 330 ድርጅት ገለቢት

ጉዳዩ የሐይቅን አካባቢ ጤና አጠባበቅ ደንብ መተላለፍ ክስ

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ቁጥር 59/113/00162/02 ያቋቋመው
የ ጽሑፍ ቤት

የአዲስ አበባ ከተማ አስተዳደር የሐይቅንና የአካባቢ ጤና አጠባበቅ ደንብ ቁጥር 1/1986
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ከሰላምታ ጋር

የግ/ክ/ከ/ጤ/ፍ/ክ/ቤ/ገ/1/343/2002
Ketebe Tulu Office
የግ/ክ/ከ/ጤ/ፍ/ክ/ቤ/ገ/1/343/2002



ገልጻዊ

ለጤና ማ/ሰሻታ/መ/ወሳሽ የሥራ ሂደት
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- 1.1 የተከማሽ ስው /ድርጅት/ሙሉ ስም ከንባር ተሳፋሪ ከንባላ
- 1.2 አድራሻ ክተማ ከ-ከ ክ/ክተማ የካ ቀበሌ 19/ክቆየቤ/ቁጥር 330
- 1.3 የድርጅት ዓይነት ጠቅላይነት የንግድ ዘርፍ አይነት
- 1.4 የንግድ ፈቃድ ቁጥር 59/113/00162102
- 1.5 የድርጅት ቤት ቁጥር 330

2.0 የተፈጸመው የሐይቅንና አካባቢ ጤና አጠባበቅ ጉዳዮች ገደብ ገጭና ፡

- የመጠኑ ስጦታ ምዕራፍ ሰነድ ማስገባት
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- የሥራ ስጦታ ሰነድ ማስገባት
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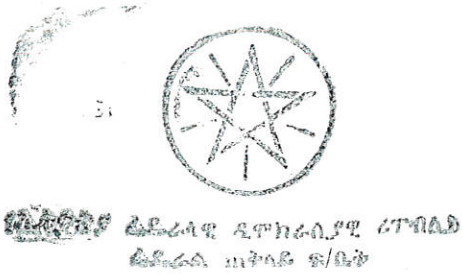
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- የሥራ ስጦታ ሰነድ ቁጥር 13/1996 ክ/ክተማ 6/7 ዓ.ም 1996
- የሥራ ስጦታ ሰነድ ቁጥር 13/1996 ክ/ክተማ 6/7 ዓ.ም 1996

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ስም የካ
ፊርማ የካ
ቀን 09/02/2002



የሰ/መ/ቁ. 52041

ሰኔ 29 ቀን 2002 ዓ.ም.

ዳኞች:- ሐጎስ ወልዱ

ሒሩት መለሠ

ብርሃኑ አመነው

አልማው ወሌ

ዓሊ መሐመድ

አመልካች:- የእርሻ መሣሪያዎችና የቴክ/አ/ማኅበር - ነ/ፊ.ጅ ጌታቸው ደጉ ቀረቡ።

ተጠሪ:- የኢት/መድን ድርጅት - ነ/ፊ.ጅ ጽጌረዳ ተሻገር - ቀረቡ።

መዝገቡን መርምረን ፍርድ ሰጥተናል።

ፍርድ

በዚህ ሰበር ሰሚ ችሎት እንዲመረመር የቀረበው የአ/አ/ ከተማ ማኅበራዊ ፍ/ቤት የግራ ቀኝ ክርክር የመዳኘት ሥልጣን በተመለከተ ነው። የጉዳይ አጀማመር ሲታይ ተጠሪ ከሣሽ አመልካች ተከሣሽ ነበር። የተጠሪ የክስ ምክንያት ንብረትነቱ የአመልካች የሆነው መኪና የተጠሪን ደንበኛ መኪና ገጭቶ ጉዳት አድርጏል በሚል ተጠሪ የከፈለውን ብር አራት ሺህ ዘጠኝ መቶ ሰባ ሰባት /4977.00/ አመልካች እንዲተካ እንዲወሰን የሚል ነው። ጉዳዩን በመጀመሪያ ደረጃ የዳኝነት ሥልጣን የተመለከተው በአ/አ ከተማ በቂርቆስ ክ/ከተማ የቀበሌ 04 ማኅበራዊ ፍ/ቤት የግራ ቀኝ ክርክር መርምሮ እንደ ክሱ አቀራረብ ወስኗል። በይግባኝ ሰሚ የአ/አ ከተማ ፍርድ ቤቶችም ይኸው ውሳኔ ፀንቷል።

በዚህ ሰበር ከቀረበው አቤቱታ አንጻር ይህ ችሎት የተመለከተው ማኅበራዊ ፍ/ቤቱ ይህንን ጉዳይ የመዳኘት ሥልጣን አለው ወይስ የለውም? የሚለውን ሲሆን በዚህ ረገድ የተጠሪ ነ/ፊ.ጅ ባቀረቡት የክርክር መልስ በአዋጅ ቁጥር 361/95 አንቀጽ 50 መሠረት ማኅበራዊ ፍርድ ቤት እስከ ብር አምስት ሺህ በሆነ የፍትህ-ብሔር ጉዳይ አከራክሮ የመወሰን ሥልጣን አለው ሲሉ የሥር ፍ/ቤቶች ውሳኔ እንዲፀና ጠይቀዋል።



የጉዳዩ አመጣጥ ከፍ ሲል ባጭሩ የተመለከተው ሲሆን እኛም ከተያዘው ጭብጥ አንጻር ሕጉን አገናዝበን መርምረናል።

ከመዝገቡ መረዳት የተቻለው የተጠሪ ክስ ምክንያት ከውል ውጪ ኃላፊነት የሚመለከት ሲሆን ለመክስ መነሻው ግን ተጠሪ ከደንበኛው ጋር አሰኝ በሚል የመድን ውል መነሻ በንግድ ሕጉ በተመለከተው የመዳረግ መብት የቀረበ ስለመሆኑ ነው። በዚህ መዝገብ የቀረቡት ተከራካሪ ወገኖች አንደኛው ብቻ ሳይሆን ሁለቱም የፌዴራል መንግሥት የተመዘገቡ ወይም የተቋቋሙ ስለመሆናቸውም መረዳት ችለናል። ስለሆነም በዚህ መነሻ የቀረበውን የዳኝነት ጥያቄ ተቀብሎ ለመወሰን የአ/አ ከተማ ማኅበራዊ ፍ/ቤት ሥልጣን አለውን? ለሚለው ጥያቄ ምላሽ ለማግኘት በተጠሪ የተጠቀሰውን አዋጅ ቁጥር 361/95 ከአዋጅ ቁጥር 25/88 ጋር በማገናዘብ መመርመር ያስፈልጋል። የአ/አ ከተማ ፍርድ ቤቶችና የመዳኝት ሥልጣን የተሰጣቸው አካላት አደረጃጀት እና ሥልጣንና ኃላፊነት በተመለከተ በአዋጅ ቁጥር 361/95 ከአንቀጽ 39-50 ድረስ ተደንግጎ እናገኛለን። ከእነዚህ ድንጋጌዎች አጠቃላይ ይዘት መገንዘብ የሚቻለው የዳኝነት አካላት ሥልጣን መሠረት ያደረገው የከተማው አስተዳደር ተቋማት ተግባር እና ኃላፊነት በሚመለከቱ አስተዳደራዊ ጉዳዮች እንዲሁም በከተማው ነዋሪዎች መካከል የሚነሱ የፍትሐብሔር እና የደንብ መተላለፍ ጉዳዮች ላይ አከራክሮ የመወሰን ኃላፊነት የተሰጠ ስለመሆኑ ነው። በተለይም ከተያዘው ጉዳይ ጋር አግባብነት ያለው የአዋጁ አንቀጽ 50/1/ የክርክር መጠኑ ከብር አምስት ሺህ ያልበለጠ የንብረት እና የገንዘብ ክርክሮችን ማኅበራዊ ፍ/ቤቶች እንዲዳኙ ሥልጣን ሲሰጥ ከፍ ሲል ከተመለከተው አጠቃላይ ዓላማ እና ወሰን ጋር መታየት ያለበት መሆኑን መገንዘብ አዳጋች አይደለም።

በዚህም እጅግ ቀላል የሆኑ ጉዳዮች እና ውስብስብ የሕግ ጥያቄ የማያስነሱ ክርክሮች በአጭር እና በቅርበት ለማኅበረሰቡ አገልግሎት እንዲሰጡ ማስቻል ስለመሆኑ መረዳት የሚቻል ነው። የአዋጁ ግብ ይህ መሆኑ የሚታወቅ ሆኖ የገንዘብ መጠኑ ከብር አምስት ሺህ በታች በመሆኑ ብቻ በማናቸውም ጉዳዮች ላይ የመወሰን ሥልጣን ያሰጠዋል የሚለውን የተጠሪ ክርክር ከአዋጅ ቁጥር 25/88 አንጻር መመልከት ተገቢ ይሆናል። የአዋጅ ቁጥር 25/88 የፌዴራል ፍርድ ቤቶችን የዳኝነት ሥልጣን ሲዘረዝር በዋናነት ታሳቢ ያደረገው የፌዴራል መንግሥት አወቃቀር እና የፌዴራል ሥርዓቱን የሥልጣን ክፍፍል መርህ በመጠበቅ መሆኑን መገንዘብ ይቻላል። ስለሆነም የፌዴራል ፍርድ ቤቶች የሥልጣን ወሰን በግልጽ በሌላ ሕግ እስካልተሻረ ድረስ በዝምታ ወይም ጎሳ በወጣ ሕግ ተተክቷል ሊባል አይችልም። ስለሆነም



በተጠሪ በኩል የቀረበው ክርክር ማለትም በአዋጅ ቁጥር 25/88 የተደነገገው ቢኖርም አዋጅ ቁጥር 361/95 ጎላ የወጣ በመሆኑ ተፈጻሚነት አለው የሚለው ክርክር ተቀባይነት ያለው አይደለም። ይልቁንም በአዋጅ ቁጥር 25/88 አንቀጽ 5/6/ እና 5/9/ ሥር በግልጽ እንደተደነገገው በፌዴራል መንግሥት የተቋቋመ ተቋም ተከራካሪ የሆነበት ጉዳይ ከመሆኑ አንጻር እና የክርክሩ መነሻም የመድን ውል መሆኑ ሲታይ በዚህ መዝገብ የቀረበው ጉዳይ የዳኝነት ሥልጣን የፌዴራል ፍርድ ቤቶች መሆኑ በግልጽ በሕግ የተደነገገ ጉዳይ መሆኑን ነው።

ስለሆነም ለፌዴራል ፍርድ ቤቶች በግልጽ በተሰጠ የዳኝነት ሥልጣን የገንዘብ መጠኑን ብቻ መሠረት በማድረግ የአ/አ ከተማ ማኅበራዊ ፍ/ቤት ሥልጣን ነው በማለት በተጠሪ በኩል የቀረበው ክርክር ተቀባይነት ያለው አይደለም ብለናል።

ስለዚህ በዚህ መዝገብ የቀረበው ክርክር ላይ ያሉት ተከራካሪ ወገኖች ማንነት እና በክርክሩ የሚነሳው የሕግ ጥያቄን መሠረት በማድረግ ከአዋጅ ቁጥር 25/88 አንጻር ተመልክቶ ባለው አግባብ ሊስተናገድ የሚገባው ሆኖ ሳለ የአ/አ ከተማ ማኅበራዊ ፍ/ቤት ተቀብሎ የሰጠው ፍርድ የሥራ-ነገር ሥልጣን በሕግ በግልጽ ያልተሰጠው በመሆኑ ሊፀና የሚችል ፍርድ የለም ብለናል።

ስለሆነም የማኅበራዊ ፍርድ ቤቱ ይህንኑ ተገንዝቦ በፍ/ብ/ሥ/ሥ/ሕግ ቁጥር 231/1/ለ/ መሠረት መዝገቡን መዘጋት ሲገባው በጉዳዩ ላይ ውሳኔ መስጠቱ የመሠረታዊ የሕግ ስህተት የተፈፀመበት ሆኖ አግኝተናል። ስለዚህም ተከታዩን ውሳኔ ሰጥተናል።

ው ሣ ኔ

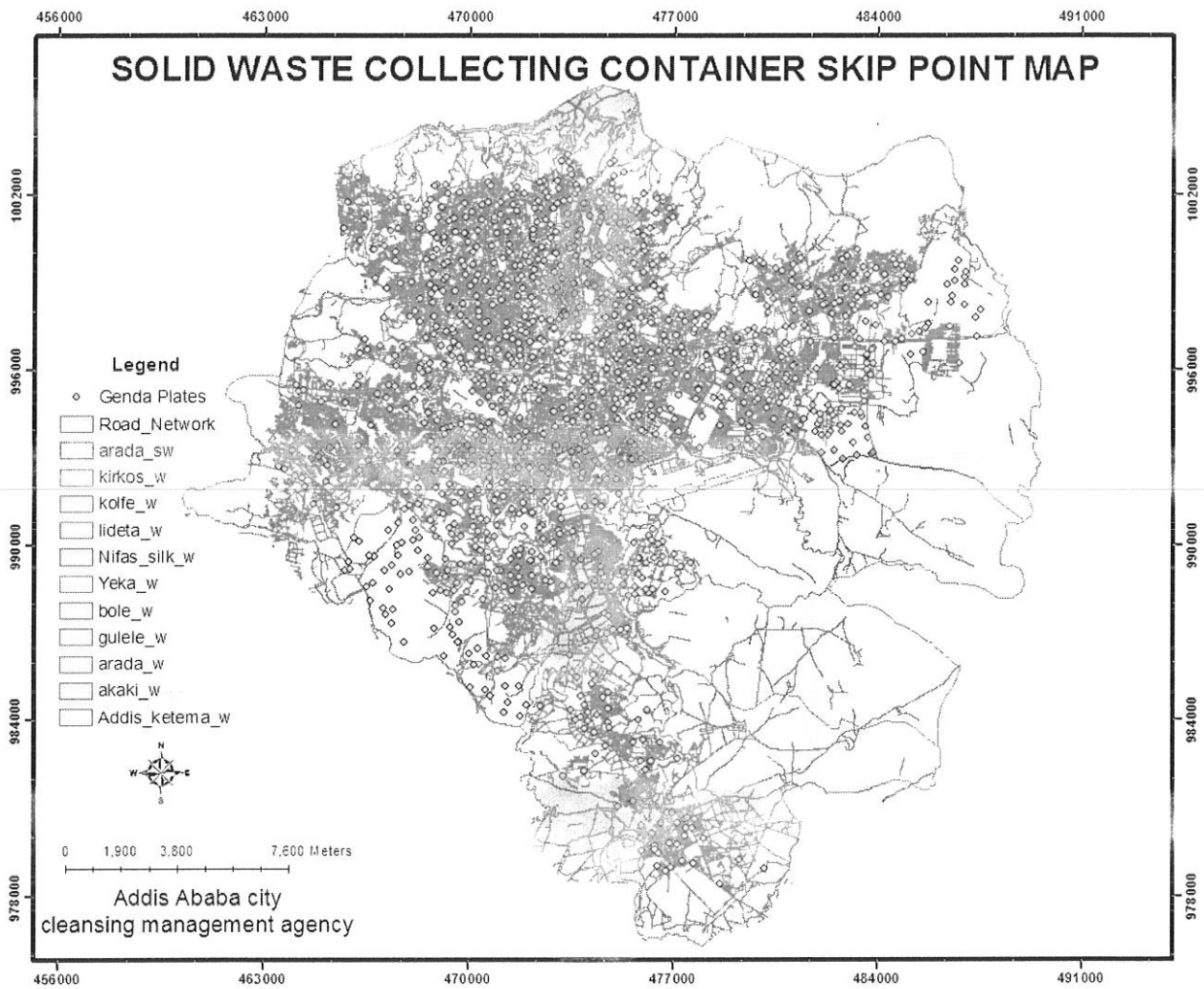
በቂርቆስ ክ/ከተማ የቀበሌ 04 ማኅበራዊ ፍ/ቤት በመ/ቁ. 953/97 የሰጠው ውሳኔ፣ የአ/አ ከተማ የመጀመሪያ ደረጃ ፍ/ቤት በመ/ቁ. 02451 የሰጠው ፍርድ እና የአ/አ ከተማ ይግባኝ ሰሚ ፍ/ቤት በመ/ቁ. 08207 በ20/02/2002 ዓ.ም. የሰጠው ትዕዛዝ በፍ/ብ/ሥ/ሥ/ሕ/ቁጥር 348/1/ መሠረት ተሸሯል።

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Annex 4



Annex 5 Pictures



Picture illustrating wrong use of communal dumpsters



Picture showing recycled materials from solid wastes



Pictures showing Repi land fill



Picture depicting solid wastes released at water canals



Pictures illustrating damaged and abused dust bins



pictures showing a river used for disposing solid wastes



picture showing piles of solid wastes waiting for waste trucks



pictures showing a river used for disposing solid wastes



picture showing piles of solid wastes waiting for waste trucks



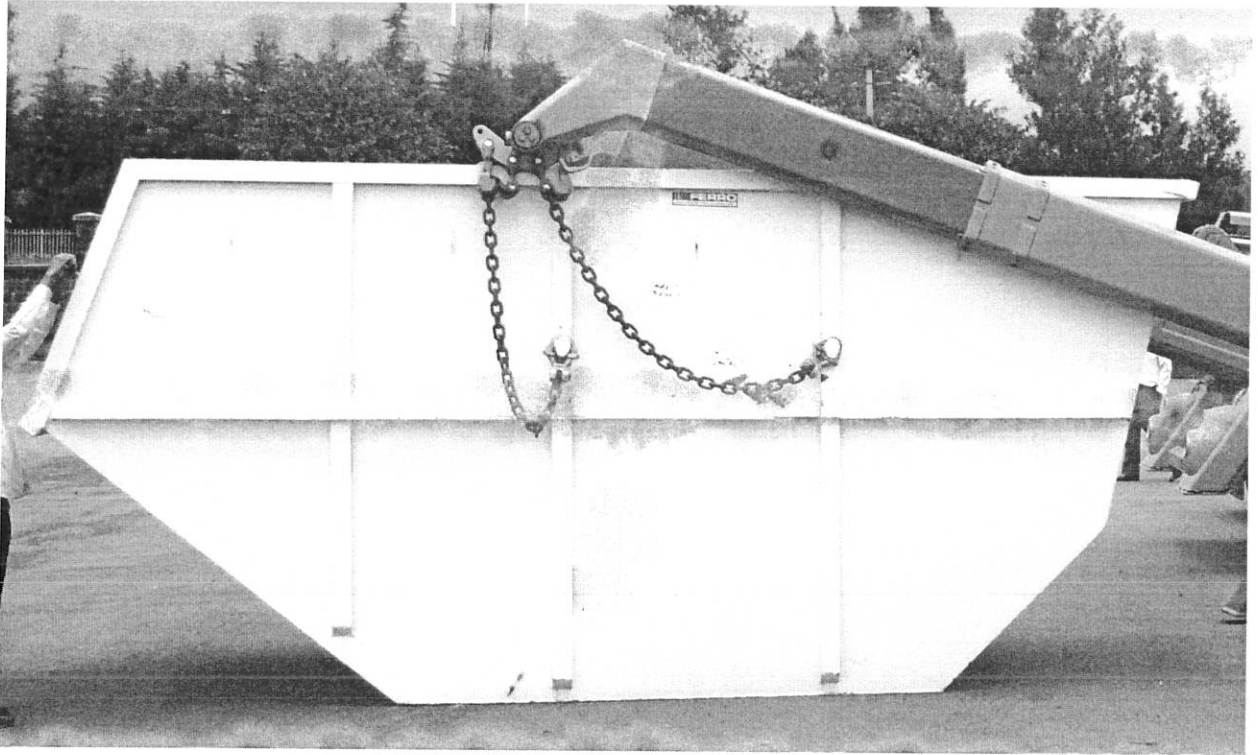
Picture depicting solid wastes released at water canals



Pictures illustrating damaged and abused dust bins



picture illustrating a 10m³ solid waste containing dumpster



Picture showing the a filled dumpster waiting for waste truck



A two legged wheeled container being used for transporting solid wastes by micro sanitary enterprises



One legged wheeled barrel being used by street sweepers to collect solid wastes in A.A.



Communal dumpster carrying waste transporting truck



A dumpster carrying truck replacing a filled container with an empty one



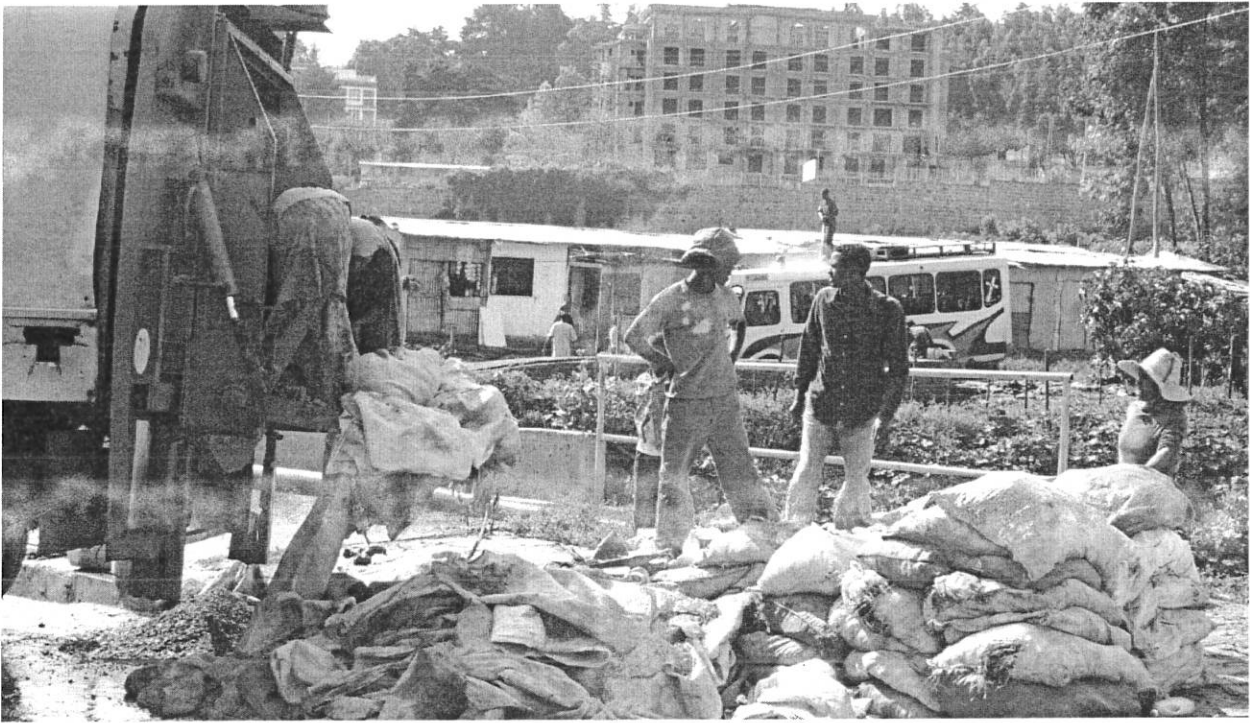
A waste truck carrying a dumpster which is not covered properly so as to avoid littering



A compactor waste truck with the capacity to carry about 34 m³ of solid wastes



A picture showing sanitary workers filling a compactor waste transporting truck



Micro sanitary enterprise workers transporting solid wastes from households to dumpsters



A covered waste transporting truck after dumping solid wastes at the Repi land fill site



Solid wastes released around a filled dumpster due to the failure to replace dumpsters in time



A filled communal dumpster waiting for a waste transporting truck



sanitary enterprises using sacks from households and accumulated near a filled dumpster

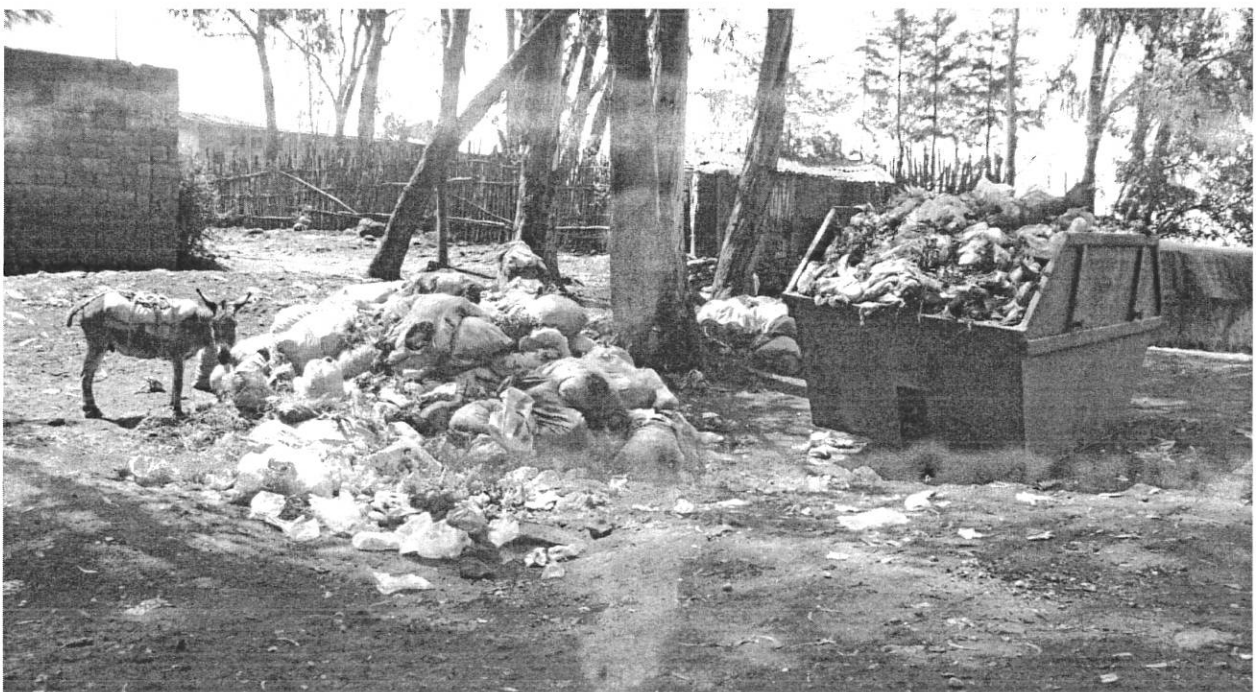
A picture showing the practice of discarding solid wastes out of dumpsters, by people



A picture illustrating informal and uninstitutionalized recycling practice at Repi land fill site



A picture illustrating the problem of timely replacing filled communal dumpsters by empty one



A picture showing the poor solid waste management practice of people residing in A.A.



Pile of solid wastes at places where communal dumpsters are not available



Picture illustrating the reluctance of people to use communal dumpsters properly



Picture showing a river being used by people for disposing of solid wastes

