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Original Article

A Critical Appraisal of the Protection Accorded Socio-Economic Rights under the FDRE Constitution

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Abstract

This article evaluates the protection accorded socio-economic rights under the FDRE Constitution. The extent to which the FDRE Constitution has guaranteed most of the socio-economic rights is unclear and it leads to several challenges. Socio-economic rights are incorporated under different parts of the constitution but, not protected as such civil and political rights. Based on an extensive review of legal documents, the protection accorded for socio-economic rights in Ethiopia may be explicitly, implicitly, or both. Focusing on the FDRE Constitution the author argues that the constitutional protection of socio-economic rights derives from the text of the Constitution itself, under fundamental rights and freedom, NPPO, international instruments ratified by Ethiopia, and through an integrated approach of socio-economic rights with civil and political rights. The article concludes that socio-economic rights are not protected as such civil and political rights it is possible to protect through different interpretations to increase the rights protection.

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Abbreviations and Acronyms

ACHPR African Charter on Human and People Rights
CEDAW Convention on Elimination of Discrimination against Women
CERD Convention on Elimination all Forms of Racial Discrimination
CRC Convention on the Rights of the Child
DPSP Directive Principles of State Policy
FDRE Federal Democratic Republic of Ethiopia
ICESCR International Covenant on Economic Social and Cultural Rights
NPPO National Policy Principles Objectives
SERAC Social and Economic Rights Action Center & Center for Economic &Social Rights
UDHR Universal Declaration of Human Rights

Introduction

The protection of socio-economic rights is not a recent phenomenon. Before the adoption of the Universal Declaration of Human Rights (UDHR), economic and social rights were basically protected under the International Labor Organization.[1] The adoption of the UDHR in 1948 was a basis for the promotion and protection of human dignity in the history of human rights. The UDHR incorporated socio-economic rights under the last provisions of eight Articles.[2] At the time when the UDHR was drafted and adopted, 'there was not much doubt that economic and social rights had to be included'.[3] Though, while Commission started to draft a binding International Bill of Human Rights, there was no consensus agreement among the members of the Commission. As a result, the commission separated into two whether to adopt in one or two covenants. Later, the General Assembly concluded that to prepare for civil and political rights[4] on the other hand International Covenant on Economic, Social and Cultural Rights (ICESCR)[5] deals with socio-economic rights.

The other instruments that also deal with socio-economic rights are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[6] the Convention on the Rights of the Child (CRC),[7] and the Convention on Elimination All Forms of Racial Discrimination (CERD)[8] Ethiopia has incorporated all these instruments as part of its law of the land. Furthermore, the African Charter on Human and Peoples Rights (ACHPR) known as the African Charter to which Ethiopia is a party[9]

[1] E.W. Vierdag, 'The legal nature of the rights granted by the International Covenant on Economic, Social and Cultural rights', *Netherlands Year Book of International Law*, Vol. 9 (1978) p.69
[2] UDHR, 10 December 1948, 217A (iii) Article 22-29
[3] A. Eide, 'Economic, Social and Cultural Rights as Human Rights', in A. Eide et al (eds.), *'Economic, Social and Cultural Rights'*, (2nd ed., (2001), Kluwer Law International, The Netherlands) p. 14
[4] ICCPR, adopted 16 December, 1966 and entered in to force on 23 March, 1976
[5] ICESCR adopted on 16 December, 1966 and entered in to force on 3 January, 1976
[6] CEDAW entered into force on 10 October, 1976 and has been ratified by Ethiopia on 10 September, 1981
[7] CRC has been ratified by Ethiopia on 14 May 1991 and entered into force on 13 June 1991
[8] CERD entered into force on 23 July, 1976 and has been ratified by Ethiopia on 23 June, 1976
[9] ACHPR, adopted 27 June 27,1981, OAU Doc. CAB/LEG/67/3 Rev.5, 21 I.L.M. 58 (1982); entered into force 21 October 1986

came with socio-economic rights;[10] however there are socio-economic rights not enshrined in the Charter, but protected by the African Commission on Human and Peoples Rights cases such as the right to food,[11] the right to water,[12] the right to adequate housing.[13]

Several African countries have lately legislated Constitutions that contain bills of rights that mostly protect civil and political rights in selected form, and also provide for the protection of certain socio-economic rights.[14] The 1995 Federal Democratic Republic of Ethiopia Constitution (herein after FDRE Constitution or the Constitution) has incorporated socio-economic rights both in its substantive part dealing with 'fundamental rights and freedoms'[15] and in the National Policy Principles and Objectives (hereinafter 'NPPO') of the FDRE Constitution,[16] which is commonly known in other legal systems as Directive Principles of State Policy (DPSP). Similarly, the protection of socio-economic rights in Ethiopia extends to international agreements ratified by Ethiopia.[17] Moreover, there are legislations other than the FDRE Constitution that deal with socio-economic rights.

The purpose of this article is to assess the protection accorded to socio-economic rights in the constitution. The first section introduces direct protection given in the constitution. Further down protection of socio-economic rights under substantive and under NPPO dealt as sub-sections. Section two deals with the protection of socio-economic rights through an Integrated approach. Under this section, the principle of equality and Socio-economic rights protection via other right interpretations has been shortly seen. The third section dealt with Socio-economic rights protection through the International Treaties and African Charter. The fourth section highlights rights holders and duty bearers of socio-economic rights. The fifth Section deals shortly with Challenges for the protection of socio-economic rights under the FDRE Constitution. Lastly, the conclusion finalizes the article.

1. Direct protections of Socio-Economic Rights under the FDRE Constitution

The FDRE Constitution under chapter three from Article 14-44 particularly deals with fundamental rights and freedoms that can be also grouped into human rights and democratic rights. In view of that, human rights are clustered from Article 14-28, whereas democratic rights are from Article 29-44. However, such classification is not undoubted. This is the reason that there are several human rights including Socio-economic rights, but grouped under democratic rights.

[10]Id Article 14, 15,16,17,18, 21, 22 and 24

[11]*Social and Economic Rights Action Center and Center for Economic and Social Rights* vs *Nigeria*, Communication No. 155/1996, 15th Annual Activity Report (2002) (known as SERAC case), Para. 63-65

[12]Ibid

[13]Ibid

[14]The Constitutional Protection of Socio-Economic Rights in Selected African Countries: A Comparative Evaluation available at:http://www.researchgate.net/publication/233575831_The_Constitutional_Protection_of_SocioEconomic_Rights_in_Selected_African_Countries_A_Comparative_Evaluation last visited on 26 May,2023

[15]Adem Kasie, 'Human Rights under the Ethiopian Constitution: a descriptive overview,' *Mizan Law Review* Vol.5 No.1,(2011), p.53

[16]Id p. 55

[17]FDRE Constitution, Proclamation No.1, *Federal Negarit Gazeta*, 1st Year, No.1 (1995), Article 13(2).

1.1 Socio-Economic Rights under Fundamental Rights (Substantive Part)

1.1.1. Rights Protected

FDRE Constitution in its substantive part dealing with "fundamental rights and freedoms" has incorporated socio-economic rights. The Constitution under Article 41 explicitly guaranteed socio-economic rights, which are titled as 'Economic Social and Cultural Rights'. Even though, the title says so there are other socio-economic rights in the constitution, such as Labour rights,[18] the rights to Development[19], the rights to Property,[20] and Environmental rights[21] which are also protected directly in the FDRE Constitution as a fundamental right.

1.1.2 Economic, Social and Cultural Rights

The title of Article 41 of the Constitution which is titled "Economic, Social and Cultural Rights" may give the impression that all the rights that fall under the province of socio-economic rights are incorporated in this provision. However, deep study of the sub-articles tells us the absence of specific rights of such a category. FDRE Constitution under Article 41 provides that:

1. Every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood of his choice anywhere within the national territory. 2. Every Ethiopian has the right to choose his or her means of livelihood, occupation and profession. 3. Every Ethiopian national has the right to equal access to publicly funded social services. 4. The State has the obligation to allocate an ever increasing resource to provide to the public health, Education and other social services. 5. The State shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parents or guardian. 6. The State shall pursue policies which aim to expand job opportunities for the unemployed and the poor and shall accordingly undertake programmes and public works projects. 7. The State shall undertake all measures necessary to increase opportunities for citizens to find gainful employment. 8. Ethiopian farmers and pastoralists have the right to receive fair price for their products, that would lead to improvement in their conditions of life and to enable them to obtain an equitable share of the national wealth commensurate with their contribution. This objective shall guide the State in the formulation of economic, social and development policies.

Despite the heading of Article 41 recognized as 'economic, social and cultural rights', it is not only fails to provide all the socio-economic rights as its heading implies, but also its provisions are so crude that it is challenging to identify the rights guaranteed and the extent of protection afforded to them.[22] This problem can be solved by referring to international human rights instruments dealing with the rights ratified by

[18]Id Article 42
[19] Id Article 43
[20] Id Article 40
[21] Id Article 44

[22] Sisay Alemahu, 'The Constitutional Protection of Economic and Social Rights in the Federal Democratic Republic of Ethiopia' *Journal of Ethiopian Law* Vol. 22 No. 2, (2008) p. 139

Ethiopia. Sub-articles 1, 2 and 3 which guarantee freedom to engage in economic activities the right to choose such engagement, and non-discriminatory access to publicly funded services are basic to all sorts of economic and social rights.

In addition, Article 41(4) of the Constitution provides the state shall have the obligation to allocate increasing ever-increasing resources to provide public health, education and other services. From this sub-article, there are two problems found. This does not establish a right to health or education as such. Because, it does not put the rights of person to public health and education rather simply states the government obligation without stating right holders. In order to solve this problem, it is better to use the rights provided under ICESCR with which the Ethiopia party with its General Comments deals. Also, it does not provide an indicative listing of the socio-economic rights, that the state should realize progressively within the limits of its available resources. The word ‘‘other social services" is an open-ended and it is vague to understand what other social services are. This open-ended word can be solved through interpretation provided under chapter three of the FDRE Constitution. According to Article 13(2) of the Constitution, all human rights provided under Chapter Three of the Constitution including Article 41(4) should be interpreted in line with ICESCR ratified by Ethiopia.

Furthermore, the FDRE Constitution under sub-article 4 and 5 recognize the nature of socio-economic rights as progressive realization since they impose an obligation on the State to allocate its increasing ever-increasing resource for their realization. This is also another problem of the Constitution dealing with socio-economic rights. In order to find a solution what progressive realization constitutes and how it relieves the Ethiopian government from fulfilling its obligations enshrined under ICESCR is to be answered here. According to the Committee on Economic Social and Cultural Rights on ICESCR under General Comment No.3 progressive realization constitutes a primary obligation and States are required to ensure the satisfaction of the very list' minimum essential levels of each of the rights.[23] For example, Article 41(5) of the Constitution limits the obligation of the State, 'within its available means, while providing rehabilitation and assistance to the physically and mentally disabled, old age and orphanage. Thus, this does not prevent the Ethiopian government from fulfilling its minimum core obligations for the right holders.

Moreover, Article 41 (6) of the Constitution imposes an obligation on the state to take all necessary measures to expand job opportunities for the unemployed and poor. Accordingly, this provision protects the socio-economic rights of the unemployed and the government has the duty to take all necessary measures to guarantee the rights. This show the rights are only for those who are unemployed and poor not include those who already have a job. Similarly, under sub-article 7 the government has an obligation to increase opportunities for citizens to find gainful employment. Finally, Article 41(8) of

[23] Committee on Economic, Social and Cultural Rights, 'the nature of states parties obligations', General Comment No.3, (5th session, 1990), UN. DOC 14/12/90 (1990), para.10

the FDRE Constitution provides that the state in the formulation of economic, social and development policies shall consider the rights of Ethiopian farmers and pastoralists to receive fair prices for their products.

Overall, Article 41 of the FDRE Constitution is not free from criticism. Sisay criticizes this provision starting from its title and all sub articles with some exceptions. According to him provision of Article 41 apart from sub-articles 1, 2, and 8 does not provide for all rights falling within the realm of socio-economic rights in black and white letters as one would hope by reading its title.[24] The writer also agrees with asserted critics, because the sub-articles provided under Article 41 of the Constitution do not go in line with the heading of the article.

1.1.3 Labor Rights

The word labor is used interchangeably with work. The right to work and rights in work contain socio-economic rights.[25] Likewise, in the FDRE Constitution labor rights (right to work) is the one socio-economic right that is incorporated under Article 42. It states under sub-article (1) (a) category of persons such as: factory and service workers, farmers, farm laborers, other rural workers, and government employees "have the right to form associations to improve their conditions of employment and economic well-being." Consequently, the rights explicitly assured are the right to form trade unions, the right to strike, the right of women to equal pay for equal work, and the right to reasonable limitation of working hours, to rest, to leisure, to periodic leaves with pay, to remuneration for public holidays as well as healthy and safe work environment.

In sum, everyone can understand that Article 42 of the FDRE Constitution has two limitations. It provides for the right of those who already have a job and does not actually provide for the right to get one. On the other hand, the exercise of trade union rights is limited to a specific category of workers "whose work compatibility allows for it and who are below a certain level of responsibility".[26] In fact, labor rights in the FDRE Constitution do not give consideration to those who have no work but rather protect those who have work.

1.1.4 The Rights to Development

The FDRE Constitution also recognized the RTD under fundamental rights as socio-economic rights under Article 43. Under this provision the Constitution defines the RTD as a right that includes the right to improved living standards,[27] the right to sustainable development,[28] and the right to participate in national development and, in particular, to be consulted with respect to policies and projects affecting their community.[29] Based on the definition the right to development under the Constitution comprises both substantive and procedural rights.[30] The substantive rights under the Constitution are the right to improved living standards and the right to sustainable development, whereas the procedural right is the right to participate in

[24] Sisay, *supra* note 22 p.139

[25] Krzyztof Drzewicki, 'The right to work and the rights in work' in A. Eide et al (eds.), 'Economic, Social and Cultural Rights': A Textbook', (2nd ed.), *Kluwer Law International*, Netherlands, (2001) p. 223

[26] Sisay, *supra* note 17, p.140

[27] FDRE Constitution *supra* note 17, Article 43(1)

[28] Ibid

[29] Id Article 43(2)

[30] Abdi Jibril Ali, 'The right to development in Ethiopia, Human Rights and Development,' Koninklijke Brill NV, Leiden, (2015), p.78

national development including the right to be consulted on development policies and projects.[31]

The Constitution under Article 43(1) claims each Nation, Nationality and People in Ethiopia including non-nations have the "right to improved living standards" as well as "sustainable development". The content of the right to improved living standards under the Constitution is not defined. The right to improved living standards is comparable with similar rights provided under international human rights instruments particularly dealing with socioeconomic rights. The right to improved living standard is similar to the right to an adequate standard of living protected under Article 11 of the ICESCR. Thus, the word improved living standard via interpretation in line with Article 11 of ICESCR enables for the insertion of implied socio-economic rights particularly the right to adequate food, housing, closing,[32] and clean water.[33] The right to sustainable development will be addressed under the next section environmental protection.

1.1.5 The Rights to Property

However, there are doubts about classifying the rights to property as either civil or political rights or as economic or social rights, as it protects the socio-economic interest of individuals it is an economic and social right.[34] The right to property is a socio-economic right enshrined under the African Charter on Human and People Rights[35] to which Ethiopia is a party. Similarly, Article 40 of the FDRE Constitution provides the right to property as a specific socio-economic right. It guarantees the ownership right to every Ethiopian citizen over 'private property', which shall comprise the right to acquire, to use, and, in a manner compatible with the rights of other citizens, to dispose of such property by sale or bequest or to transfer it otherwise.[36] In view of that, the Constitution under Article 40 clearly specifies, 'private property[37] shall mean: -

> Any tangible or intangible product which has value and is produced by the labour, creativity, enterprise or capital of an individual citizen, associations which enjoy juridical personality under the law, or in appropriate circumstances, by communities specifically empowered by law to own property in common.

This sub-article tells us as a principle every Ethiopian citizen has the right to own private property (socio-economic right), except when limited by legislation for the public interest. Bestowing to Elias N. Stebek Article 40 (2) of the FDRE Constitution, a person is a titleholder of the house which is the product of his labor, creativity, enterprise, or capital.[38] Besides, the Constitution in Article 40(8) requires when the government expropriates private property for public

[31] Ibid

[32] ICESCR, *supra* note 5, Article 11(1)

[33] Committee on Economic, Social and Cultural Rights, the right to water, General Comment No.15 (2002), (twenty-ninth session, November 2002), E/C.12/2002/11 (2003), para.3

[34] Katarine Krause, 'The right to property', in A. Eide et al (eds.), 'Economic, Social and Cultural Rights': A Textbook', 2nd ed., Kluwer Law International, (2001) p. 191

[35] ACHPR, *supra* note 9, Article 14

[36] FDRE Constitution, *supra* note 17,Article 40(1)

[37] Id Article 40(2)

[38] Elias N. Stebek, 'Access to Urban Land and its Role in Enhancing Business Environment: Multi-track *versus* Mono-route Land-use Markets': *Mizan Law Review*, Vol. 9, No.1 (2015) p.22

interest, the government pay compensation proportionate to the value of the property. In view of that, the right to property in Ethiopia with some exceptions can be taken by the government.

Furthermore, property rights are also present in scattered form under chapter three as fundamental rights and freedom in different provisions of the FDRE Constitution. For example, The Constitution under Article 35 guarantees women have equal rights to property with men to acquire, administer, control, use, and transfer any specific property.[39] The Constitution also assures women shall have a right to equality in employment.[40] Similarly, Article 36 recognizes child has the right to free from child labor that affects his/her education and health.[41] Moreover, the Constitution under Article 37 assures everyone has the right to get access to justice[42] including socioeconomic rights. FDRE Constitution under its Articles 35 and 36 foresees that more protection has been given for women and children in socio-economic cases in addition to protections assured under Article 40.

1.1.2. Environmental Rights

The relationship between Human rights and the environment is intertwined. In fact, human rights cannot be enjoyed without a safe, clean and healthy environment; and sustainable environmental governance cannot exist without the establishment of and respect for human rights.[43] This means human rights and environmental protection a matter that one cannot exist without the existence of the other or one cannot properly enjoy human rights without environmental protection.[44] However, there are doubts to classify environmental rights as civil and political rights or socio-economic rights or group/solidarity rights. Due to the fact that it protects the interests of individuals or groups it can be considered as socio-economic rights.[45]

Likewise, the FDRE Constitution addresses issues concerning the environment under Articles 43, 44, and 92. The concept of environmental protection, sustainable development and environmental rights originates from those provisions of the Constitution. Articles 44 and 43 (sustainable development) could be detailed under this section of the substantive part, while Article 92 will be addressed under NPPO. FDRE Constitution under chapter three in Article 44 also recognized environmental rights (the right to a healthy environment) as fundamental rights without defining and delimiting the term environment.[46] However, the Environmental Protection Organs Establishment Proclamation under Article 2 defines the environment as:

"Environment" means the totality of all materials whether in their natural

[39] FDRE Constitution, *supra* note 17, Article 35(7)
[40] FDRE Constitution, *supra* note 17, Article 35(8)
[41] Id Article 36(1) (d)
[42] Id Article 37(1)
[43] Report of the United Nations High Commissioner for Human Rights, Analytical study on the relationship between human rights and the environment, nineteenth session agenda items 2 and 3, (Dec.16 2011) p.6
[44] Ibid
[45] Girmachew Alemu Aneme, 'The Policy and Legislative Framework of Environmental Rights in Ethiopia,' *Ethiopian Human Rights Law Series* Volume IV, Addis Ababa University Press, (July 2012), pp 5-6
[46] Id p.3

state or modified or changed by human, their external spaces and the interactions which affect their quality or quantity and the welfare of human or other living beings, including but not restricted to, land atmosphere, weather and climate, water, living things, sound, odor, taste, social factors, and aesthetics.[47]

In view of that, the FDRE Constitution guarantees environmental rights as a fundamental right to have/to live in a clean and healthy environment, the right to commensurate monetary or alternative means of compensation, including relocation with adequate state assistance (the right to improved living standards or the right to livelihood) and the right to sustainable development.

a) **The right to a clean and healthy environment**

The FDRE Constitution unequivocally recognizes the right to live in a clean and healthy environment under Article 44(1) which states that 'all persons have the right to a clean and healthy environment'. Thus, the existence of such constitutional provisions protecting the right to a clean and healthy environment under fundamental rights along with other rights indicates how those rights are essential. Obviously, the right to a clean and healthy environment of the people under sub-article 1 of Article 44 is put in general terms. However, to implement these rights the Constitution enables the Federal Government to enact specific environmental laws.

b) **The right to commensurate monetary or alternative means of compensation, including relocation with adequate state assistance**

FDRE Constitution in Article 44 also enunciates environmental rights as a fundamental right to commensurate monetary or alternative means of compensation, including relocation with adequate state assistance.[48] It guarantees a person who is displaced or has lost the means of his livelihood due to the implementation of State programs has the right to seek appropriate compensation from the State. According to this provision, if and when it is necessary to implement development projects that may displace or adversely affect the livelihood of people, the government is obliged to provide commensurate monetary or other types of compensation and relocation with adequate assistance.

c. **The right to sustainable development**

The FDRE Constitution incorporated the right to sustainable development under Article 43 without defining the term sustainable development. Under sub article 1 among other rights protects 'the right to improved living standards' and 'the right to sustainable development' for the people of Ethiopia. At this juncture, the right to improved living standards has reference to the better quality of life in terms of the environment as well as other basic needs and comforts. The right to sustainable development is globally defined as development that meets the needs of the

[47] Proclamation No. 295/2002, A Proclamation provided for the establishment of Environmental Protection Organs, Article 2(3)

[48]FDRE Constitution, *supra* note 17, Article 44 (2)

present generation without compromising the environmental needs of future generations.[49] The term sustainable development contains both substantive and procedural elements.[50] The substantive elements are sustainable utilization of natural resources, the integration of environmental protection and economic development, the right to development, the pursuit of equitable allocation of resources both with the present and future generations (intra and inter-generational equity), and the internalization of environmental costs through the application of the 'polluter pays' principle.[51] Furthermore, according to Article 43(3) of the FDRE Constitution in pursuant to the right to sustainable development, the Federal Government has an obligation to see to it that its international agreements and relations, concluded, established, or conducted, with other states protect and ensure the right to sustainable development. Moreover, Article 43(4) repeats the basic idea of sustainable development, such as development through rational and prudent use of environmental resources.

In sum, the right to sustainable development enshrined under Article 43 of the FDRE Constitution comprises both substantive and procedural elements. Thus, when we interpret the right to sustainable development recognized under the FDRE Constitution, the substantive elements includes the right to sustainable utilization of natural resource, the integration of environmental protection and economic development programs, the right to development which is the right of rights, the pursuit of equitable allocation of resources both with the present and future generations (intra and inter-generational equity).[52]

1.2 Socio-Economic Rights under National Policy Principles and Objectives (NPPOs)

The FDRE Constitution has also incorporated socio-economic rights in the NPPO of the Constitution. Chapter ten of the FDRE Constitution is devoted to NPPOs with which any organ of government at both Federal and State levels shall be guided in the implementation of the Constitution, other laws, and public policies.[53] For instance, Chapter 10 of the FDRE Constitution deals with the NPPO that comprises essential provisions relevant to human rights particularly socio-economic rights.

Basically, for the Constitutional protection of socio-economic rights, there are different ideas for different writers. Some writers argue that the statuses of socio-economic rights in the FDRE Constitution are unclear as they are both placed under chapter three of the substantive part as fundamental rights and in other to be found under DPSP.[54] On the other hand, others claim that the national

[49] Brundt land Commission, World Commission on Environment and Development, Our Common Future (1987) p.43

[50] Principle 3-8 and 16 of the Rio Declaration on Environment and Development (United Nations Conference on Environment & Development) Rio de Janerio, Brazil, (3 to 14 June 1992) Agenda 21

[51] Ibid

[52] Dersolegn Yeneabat, 'Comparing the Status and Recognition of the Right to Development Under the RTD Declaration, African Charter on Human and People's Right and Ethiopian Constitution,' *International Journal of African and Asian Studies*, Vol.19, (2016), p.7

[53] FDRE Constitution, *supra* note 17, Article 85

[54] Takele Soboka, 'Exception as norms: The local remedies rule in the context of Socio-economic rights in the African human rights system,' *The International Journal of Human Right,* Vol.16 No.4 (2012), p. 557

policy objectives and principles are the DPSP of the FDRE Constitution. As a result, socio-economic rights incorporated under fundamental rights and freedom are protected rights as claims for individuals and groups and enforceable by courts. Whereas, socio-economic rights enshrined under chapter ten of NPPO are not directly enforceable by the courts.[55]

For the writer, the assertions that NPPOs are DPSPS of the FDRE Constitution are unsound. This is because the Constitution clearly indicated NPPO didn't insist on DPSP and their purposes and goals are different. As a result, it is untenable to use interchangeably. For example, the 1937 Constitution of Ireland states clearly the title 'Directive Principles of Social Policy'[56] unlike the FDRE Constitution. As far as NPPOs are not DPSP of the FDRE Constitution, they can be enforced by the court. Normally, the FDRE Constitution under Chapter 10 deals with NPPO that socio-economic rights are protected as economic, social, and environmental objectives enshrined under Articles 89, 90, and 92 respectively.

1.2.1 Economic Objectives

Apart from the duties of the State corollary to economic rights, the economic objectives also include other objectives that are related to cultural rights and the right to development. The FDRE Constitution under Article 89 provides for the duty of the government to formulate policies that ensure that all Ethiopians can benefit from the country's legacy of intellectual and material resources.[57] According to this provision reference is made to 'the country's legacy' implying its inheritance; such policies could have been better categorized under the cultural objectives.[58] The Constitution also imposes a duty on the government to safeguard equal opportunity to improve and promote economic conditions and equitable distribution of wealth for all Ethiopians.[59] Similarly, the Constitution recognizes the government's duty to prevent any natural and man-made disasters and to provide assistance when they occur is included as an economic objective.[60]

Furthermore, the FDRE Constitution under Article 89(4) cumulative Article 25 stipulates the government to provide affirmative measures for disadvantaged nations, nationalities, and peoples in economic development. On the other hand, the Constitution under Article 89 (4) lays down the government has duty to safeguard the principle of equality between men and women in relation to economic and social development participation. In sum, the government has the duty to protect and promote the economic rights of the working population of the country such as health, welfare, and living standards. In writer's view, economic objectives stated under policy objectives of Article 89 of the FDRE Constitution only express about duty of the government (there are no rights of the

[55] Sisay, *supra* note 22, p.141

[56] Abdi Jibril and Kwadwo Appiagyei-Atua, 'Justifiability of Directive Principles of State Policy in Africa: The Experiences of Ethiopia and Ghana,' *Ethiopian journal of human rights* Vol.1, (2013), p.5

[57] FDRE Constitution, *supra* note 17, Article 89(1)

[58] Abdi and Kwadwo, *supra* note 56, p.17

[59] FDRE Constitution, *supra* note 17, Article 89(2)

[60] Id Article 89(3)

individuals in besides), unlike socio-economic rights provided under chapter three that clearly states that government as duty bearer and individuals as rights holders side by sides.

1.2.2 Social objectives

FDRE Constitution under social objectives requires the state to provide all Ethiopians access to public health and education, clean water, housing, food, and social security as resource permits.[61] The social objectives are the rewriting of Article 41(4) of the FDRE Constitution in the form of state duties with the objective mainstreaming it to the country's policies. It is totally a government obligation without the corresponding individual rights and tied up by the language of progressive realization. The State obligation under Article 90(1) is a little bit different from Article 41(4) of the Constitution. In the case of Article 41(4), the obligation of the state is relatively strong and immediate than Article 90(1) of the Constitution. Protection and Promotion of the health, living standard, and general welfare of the working population are not limited expressly by resource constraints unlike the provision of public health, education, water, food, housing, and social security to all the people. It seems that the Constitution favors of the working population, though the basis of the social objective is a "welfare state that provides the minimum acceptable to all the citizenry".[62]

However, the socio-economic rights exhausted under Article 90 (1) have no doubt and the court can apply easily without difficulties, whereas, Article 41(4) says'…other social services" is vague, broad, and what it means other social services not defined. By reading Article 41(4) with Article 90(1) other social services are clean water, housing, food, and social security. As a result, socio-economic rights enshrined in NPPO are giving more protection for the rights in addition to chapter three of the FDRE Constitution. On the other hand, some writers argue the emphasis on social policies gives the impression of disregarding other obligations of the State, by putting faith in ICESCR of Article 13(2) (a) to which Ethiopia party clearly impose obligation on states to provide free primary education.[63] However, the author argues though there is no clearly stated obligation of states, the state has an obligation to provide social rights. The rights stipulated under social objectives are even more clear than other rights of socio-economic rights. If the duty of the state is not clear to curtail the problem reading with other provisions is the solution.

1.2.3 Environmental Objectives

The FDRE Constitution also enumerates a set of 'environmental objectives and places them under chapter ten along with the principles for external relations[64] and national defense,[65] and political,[66] economic, social, and cultural objectives.[67] The Constitution under Article 92 clearly states about

[61] FDRE Constitution, *supra* note 17, Article 90(1)
[62] Fasil Nahum, Constitution for a Nation of Nations: The Ethiopian Prospect, The Red Sea Press (1997), P.189
[63] Abdi and Kwadwo, *supra* note 56, p.19
[64] FDRE Constitution, *supra* note 17, Article 86
[65] Id Article 87
[66] Id Article 88
[67] Id Article 91

environmental objectives. This provision not only repeats the fundamental right to live in a clean and healthy environment[68] but also imposes a corresponding constitutional duty on the federal and the regional governments along with citizens 'to protect the environment'.[69] Furthermore, it expects the governments to ensure that development projects and programs do not damage or destroy the environment.[70] It also assures Ethiopians that they have the constitutional right to participate in the planning and implementation of environmental policies and projects that affect them directly.[71]

Moreover, all NPPOs including environment objectives enshrined under chapter ten of the FDRE Constitution secured the status of guiding principles in the State Governance. Therefore, the Constitution under Article 85(1) obliges all organs of the federal and regional governments to be guided by these 'objectives' in implementing the Constitution, other laws, and public policies.

2 Integrated approach protection of socio-economic rights

The integrated protection approach can be said indirect protection of socio-economic rights applying through the interpretation of civil and political rights. In this case, the rights are protected through the application principle of the right to equality or non-discrimination[72] and other rights.

2.1 Right to equality or non-discrimination

The right to equality is the basic for protection of socio-economic rights that realizes the better protection of all human rights. The right to equality in the FDRE Constitution is enunciated under Article 25.[73] The article delivers three messages for every person. Firstly, runs for the principle of equality before the law and confers the right to equal protection of the law. Secondly, contains a prohibition of discrimination on certain listed grounds. Lastly, extends the prohibition of discrimination to other unlisted grounds ('others'). This means all the rights incorporated in the FDRE Constitution are protected from discrimination. Thus, the violation of a given socio-economic rights may trample not just the specific socio-economic right in question, but also the equality clause[74] uttered in the Constitution. In such cases, the use of the right to equality, or, alternatively, proving discrimination has been shown to be a vital instrument as a means of demonstrating the violations of socio-economic rights.

Overall, the right to equality (no-discrimination) used as a cross-cutting right

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[68] Id Article 92 (1)
[69] Id Article 92 (4)
[70] Id Article 92 (2)
[71] Id Article 92 (3)
[72] S. Liebenberg, 'The Protection of Economic and Social Rights in Domestic Legal Systems', in A. Eide, C. Krause & A. Rosas (eds.), *'Economic, Social and Cultural Rights*: A Textbook', (2nd ed., 2001) p.71
[73] FDRE Constitution, *supra* note 17, Article 25 stated as:

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.

[74] Takeke Soboka, 'The Utility of Cross-cutting rights in to Enhancing Justifiability of Socio-economic Rights in the African Charter on Human and Peoples'; *The University of Tasmania Law Review* vol.29 No. 2(2010) p.164

to the protection of socio-economic rights discussed above such as socio-economic rights, labor rights, property rights, the rights right to development, economic and social objectives, etc. Article 41(3) the word '…equal access…' Article 35(3) the phrase and Article 89(7) the word 'women equal with men' cumulative with Article 25 of the Constitution evades discrimination with respect to socio-economic rights if discrimination existed. Socio-economic rights are protected through cross-cutting rights by applying the right to equality with the right violated. Henceforth, even though practically challenging a person can bring the case to the court of the law if any socio-economic rights are violated based on Article 25 of the FDRE Constitution.[75] As a principle, the Constitution clearly recognizes everyone has the right to equality or non-discrimination without any grounds, but there are also exceptions to the principle based on legitimate grounds of affirmative action. For example, Article 41(5) stipulates states allocate resources to make available the physically and mentally disabled, the aged, and children who are left without parents or guardians. Similarly, Article 89(4) of the Constitution affords the phrase the government to deliver 'special assistance' to least advantaged nations, nationalities, and peoples in economic development.

2.2. Socio-economic rights protection via other rights interpretation

Noticeably, all human rights including socio-economic rights are indivisible, interrelated, and interdependent. The concept of indivisibility, interrelatedness, and interdependence of human rights in general has come during the 1993 Vienna Conference.[76] Besides, the African Charter to which Ethiopia is party under its preamble stipulated satisfying socio-economic rights is a guarantee for civil and political rights.[77] As a result, the FDRE Constitution will have a great role in realizing the protection of socio-economic rights through the notion of indivisibility, interrelatedness, and interdependence of the rights. For example, in the *SERAC* case, the African Commission used the right to food from the right to dignity, the right to shelter from the right to health.[78]

In the FDRE Constitution, the right to life is an example that can show that other rights can be derived from it. Craig Scott alleges that the right to an adequate standard of living and health is part of the right to life and dignity.[79] According to Article 15 of the FDRE Constitution, everyone has the right to life. Socio-economic rights are pre-condition-conditions for the protection of civil and political rights like the right to life.[80] The right to life clearly relies on socio-economic rights such as the right to health, food, housing, and others. Thus, the right to life contributes to the protection of socio-economic rights through other rights

[75] Sisay, *supra* note 22, p.142

[76] Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna, (June 25, 1993) para. 5

[77] Takele, *supra* note 54, p.157

[78] Id p.159

[79] Craig Scott, 'The Interdependence and Permeability of Human Rights Norms: Towards a Partial Fusion of the International Covenants on Human Rights', *Osgoode Hall Law Journal*, Vol. 27, No. 4 (1989),P.874.

[80] Takele, *supra* note 54, p.158

interpretations guaranteed in the FDRE Constitution.

3 Socio-economic rights protection through International Treaties and African Charter

FDRE Constitution also protects socio-economic rights through international instruments ratified by Ethiopia dealing with the rights. The Constitution under Article 9 provides that, it is the supreme law of the land.[81] On the other hand, Article 9(4) of the Constitution states all treaties ratified by Ethiopia are integral parts of the law of the land. According to this provision international agreements ratified by Ethiopia are an integral part of its domestic law. At this juncture, no other substantive step is required, except a proclamation ratifying the convention required to make a ratified agreement an integral part of Ethiopian law.[82] Afterward, by reading Article 9(4) and Article 13(2) of the FDRE Constitution socio-economic rights set under chapter three of fundamental rights and principles shall be interpreted in compatible to international and regional human rights instruments dealing with socio-economic rights, such as UDHR,[83] ICESCR,[84] CRC,[85] ACHPR[86] and others[87] to which Ethiopia is party. From this one can understand that, there are other provisions outside this chapter that are directly or indirectly relevant to human rights (socio-economic rights). For that reason, Ethiopia is bound to respect the above international and regional human rights instruments in interpreting the socio-economic rights provided there.

Moreover, the Ethiopian government is also bound to apply General Comments, Committee decisions, and African Commission decisions with regard to socio-economic rights. Hence, everyone in the country facing violation of any socio-economic rights can cite the provisions of international human rights instruments and the ACHPR ratified by Ethiopia to protect his/her rights as enshrined there in; and federal or state courts at any level are bound to respect that. Overall, in addition to different parts of the Constitution several international human rights instruments and ACHPR to which Ethiopia is a party protect the socio-economic rights of every person including any Ethiopian.

4 Right Holders and Duty Bearers of Socio-Economic Rights in the FDRE Constitution

Each and every human right including socio-economic rights recognized under international/regional human rights

[81] FDRE Constitution, *supra* note 17, Article 9(1)

[82] FDRE Constitution, *supra* note 17, Article 71 (2)

[83] UDHR, *supra* note 2, Article 25 which provides for the right to a standard of living adequate for the health and well-being . . . including food, clothing, housing and medical care the right to a healthy environment.

[84] ICESCR, *supra* note 5, Article 11(1) and 12(1) has certain relevant provisions on the right to a healthy environment towards guaranteeing an adequate standard of living.

[85] CRC, *supra* note 7, Article 24 (1) 'recognize the right of the child to the enjoyment of the highest attainable standard of health.'

[86] ACHPR, *supra* note 9, Article 22(1) all people have the right to economic, social and cultural development.

[87] Additional Protocol I to the Geneva Conventions Article 35(3) provides, it is prohibited to employ methods or means of warfare which are intended or may be expected, to cause widespread, long-term and severe damage to the natural environment. See also Article 55 (1 &2) provides for environmental protection with special reference to the health and survival of the people in the area of the conflict, and beyond.

instruments and FDRE Constitutions must be implemented. Their implementation requires identifying who is/are the duty bearers and who is/are beneficiaries or the right holders of the specific rights.

4.1 Rights holders of socio-economic rights

In the development of human rights, rights are nothing without knowing who the right holders are. In as discussed above, the FDRE Constitution under Article 41 and other relevant provisions protect economic and social rights as entitlements of individuals and groups. According to Article 41(1) and (2) of the Constitution social, economic, and cultural rights incorporated are enunciated for the benefit of every Ethiopians, however as clearly provided under Article 41(5) of the FDRE Constitution certain rights are for the benefit of a specific group of physically and mentally disabled, the aged and children who are left without parents or guardian, and Ethiopian farmers and pastoralists as enshrined under Article 41(8).

Also, the FDRE Constitution with reference to other socio-economic rights such as the right to property recognized under Article 40 and the right to development stated under Article 43 are for the benefit of Ethiopian citizens. What is more, chapter ten of the Constitution under Articles 89 and 90 of the socio-economic objectives and principles for State policy are also formulated for the benefit of all Ethiopians, except some are for the benefit of a defined group of the right holders' particularly least advantaged nations, nationalities, and peoples in economic,[88] women[89] and victims of disasters.[90] This also indicates that only Ethiopian citizens are right holders or can claim socio-economic rights enshrined in the Constitution.

In general, from this scenario, everyone can understand that in the FDRE Constitution, none of the economic, social, and cultural rights are explicitly formulated for the benefit of "everyone" like civil and political rights. Teferi tries to justify this expression based on ICESR under Article 3(2) seems that it has already contemplated the probability of such a scenario by allowing developing countries to guarantee economic rights provided in the Covenant to non-nationals to the extent of their national economy.[91] Therefore, he claims that why the FDRE did not extend the right holders of economic, social, and cultural rights to everyone seems to be justified on the grounds of the economic development of the country.[92]

4.2 Duty bearers of socio-economic rights

It is noticeable that right is meaningless unless duty exists on the other side of it. The human rights jurisprudence reveals that human rights impose the triple obligation to respect, protect and fulfill.[93] The FDRE Constitution under Article 13(1) imposes a duty to promote and fulfill the three organs of government at all levels either federal or regional to respect and enforce the provisions

[88] FDRE Constitution, *supra* note 17, Article 89 (4)
[89] Id Article 89 (7)
[90] Id Article 89 (3)
[91] Teferi Bekele Ayana, Human Rights Protection under the FDRE and Oromia Constitutions: A comparative study, *Oromia Law Journal* Vol.5,No.1, (2016), p.52
[92] Ibid
[93] Magdalena Seplveda, Theo Van Banning, Gudrn Gudmundsdttir, Christine Chamoun and Willem Van Genugten, *Human Rights Reference Handbook*, University for Peace, (2004), pp.16-17

of Chapter Three, containing socio-economic rights. Accordingly, all fundamental rights including socio-economic rights guaranteed under this chapter can be realized when Federal and the States' organs such as legislative, executive, and judicial obey their responsibility and duty to respect and enforce' the rights thereunder. Similarly, the Constitution under Article 85(1) legislative, executive, and judiciary organs of the government both at the federal and regional levels should be guided by DPSP. This obligation is additional to the enforcement of socio-economic rights and other national objectives.

Likewise, the duty to protect obliges the State to prevent private actors from infringing the socio-economic rights of others. For instance, FDRE Constitution under Article 41(6) places a positive duty on the State to pursue policies, which aim to expand job opportunities for the unemployed and the poor. Further, the Constitution under Article 41(7) imposes an obligation to create a favorable environment for the creation of employment opportunities in which citizens can find gainful employment and improve their economic conditions. The Constitution under Article 41(4) also provides the State has the obligation to deliver public health, education, and other social services. This provision shows the kind of public-funded social services the government may provide. However, these services such as public health, education, and other social services are expressed not as rights but as duties to the state based on available resources akin to the socio-economic objectives of the DPSP.

Besides, the duty to promote and fulfill requires the State to take positive measures to assist individuals and groups of individuals to obtain access to socio-economic rights. Accordingly, Article 41 (5) of the Constitution expresses the duty of the state to allocate resources for the realization of the socio-economic rights for the disabled. The state has the duty to respect and protect[94] even though, sub-article 1, 2, and 3 are stated as the rights of individuals. Moreover, both under ACHPR and FDRE Constitution the state is duty-bound to ensure the Right to development. On the other hand, the FDRE Constitution under Article 92(4) provides both the Government and citizens with the duty to protect the environment.

5 Challenges for protection of Socio-economic rights in the FDRE Constitution

Socio-economic rights are protected sparsely under different provisions of the FDRE Constitution either directly or indirectly or both. As a result, socio-economic rights guaranteed under the Constitution have their own features and face the following challenges: The Constitution contains 106 Articles in general and only a few articles deal explicitly with socio-economic rights compared to civil and political rights. This means almost the majority of the Articles of the Constitution talk about civil and political rights as opposed to socio-economic rights and[95] they have a wide coverage of the Constitution. Because, during the Constitution drafted socio-economic rights were not given the same emphasis as civil and political rights. This aptly tells us, the failure

[94] Takele, *supra* note 54, p.168

[95] Sisay, *supra* note 22, p.138

of the Constitution to accord a balanced protection to the two grand categories of human rights. However, yet socio-economic rights are small in number they should be considered alike as civil and political rights.

The other challenges are those socio-economic rights stipulated in the FDRE Constitutions are very general and unclear. If a certain law is general and vague it leads to debate. Some of the provisions of Socioeconomic rights enshrined in the constitution such as Article 41(3) the word 'publicly funded social services' is vague and general to understand what it means. Almost all the rights under the same articles are so crude that it is difficult to identify the rights guaranteed and the extent of protection afforded to them. Specifically, Article 41(6) and (7) do not give rise to a right-based approach rather, they impose duty on the government to ensure the enjoyment of the rights provided for in Article 41(1) and (2) recognized in unsophisticated terms.[96] To overwhelm the problems of vagueness confronted with socio-economic rights in the FDRE Constitution there are three solutions to be forwarded.

Firstly, Dejene asserts that the only possible way of alleviating socio-economic rights vagueness is interpretation through which it is possible to expand the existing rights in order to cover the untouched areas of economic and social rights.[97]

Secondly, the FDRE Constitution under Article 9(4) states that 'all international agreements ratified by Ethiopia are an integral part of the law of the land'. Ethiopia has ratified several international and regional human rights instruments dealing with socio-economic rights. As a result, since they are part of the law of the land federal and regional courts at all levels can apply provisions of ratified treaties by Ethiopia.[98]

Finally, the Committee on Economic, Social and Cultural Rights to which Ethiopia is a party, explicitly deals with socio-economic rights and has allotted many General Comments to clarify the scope and content of the rights confined in the ICESCR. These comments are a clear indication that the rights are capable of definition,[99] and can also be used by courts to define the scope of disputed socio-economic rights presented before them. Therefore, Ethiopian courts at any level either federal or regional having jurisdiction on the matters use the General comments of economic, social, and cultural rights such as the General Comment on the right to health,[100] when violation of any socio-economic rights appeared before. Therefore, the vagueness and broadness of socio-economic rights do not justify the denial of their protection in the FDRE Constitution.

6 Conclusion

[96] Id p.148

[97] Dejene Girma, 'Economic, Social and Cultural Rights and their Enforcement under the FDRE Constitution', *Jimma University Law Journal* Vol.1, No. 2, (2008), p.83-85

[98] Sisay, *supra* note 22, p.148

[99] Mariette Brennan, 'To Adjudicate and Enforce Socio-Economic Rights: South Africa proves that Domestic Courts are a Viable Option,' *Queensland University Tech. Law and Justice Journal*, Vol. 9, No. 1 (2009), p. 70

[100] Committee on Economic, Social and Cultural Rights, *the right to the highest attainable standard of health*, General Comment No. 14, (twenty second session, 2000), E/C 12/2000/4 (2000), see also General Comment No.15, *supra* note 33

Before the adoption of an independent primary instrument of ICESCR, the legal nature and protection given for socio-economic rights were less debatable among scholars. However, later ICESCR became an international human rights treaty adopted in 1966 to ensure the protection of economic, social, and cultural rights such as the right to education, fair and just conditions of work, adequate standards of living, and the highest attainable standard of health and social security. Afterward, several international and regional human rights treaties also incorporated socio-economic rights.

FDRE Constitution also came with many rights (holistic) such as civil and political rights, socio-economic rights, and group rights. However, to what extent the rights are protected is debatable among Ethiopian writers. The Constitution guarantees socio-economic rights in different ways, particularly as fundamental rights and freedom, NPPO, international/regional instruments ratified by Ethiopia, and by applying an integrated approach.

However, socio-economic rights guaranteed under the Constitution have got their own features and face some challenges. Unlike civil and political rights the socio-economic rights are certain in number and they should be cured alike as civil and political rights. The other challenge is those rights are expressed in general and vague to understand the rights. To overcome such problems, it is possible to apply through interpretation, applying international/regional instruments dealing with the rights that are part and parcel of the Constitution, and to apply General Comments that clarify the rights in the ICESCR. In sum, since human rights are by their nature interrelated, interdependent, and indivisible the vagueness and broadness of socio-economic rights does not justify the denial of their protection in the FDRE Constitution.

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Original Article

Bridging Legal Gaps with Customary Practices of Conflict Resolution as Restorative Justice: Comparative Analysis of *Gadaa* System with Ethiopian Criminal Law

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Abstract

Conflict is inevitable in social life. It appeals to devising different systems and mechanisms to maintain peace and social cohesion. Now a day modern laws are supposed to maintain justice and social cohesion. Criminal law in particular applies when crime is committed. The modern criminal justice system however is criticized by many scholars as it gears toward punishment rather than restoring peace and social cohesion within the community. This makes the justice system unreliable as it fails to maintain social cohesion. Gadaa, on the other hand, is known for making peace while resolving conflicts. The Oromo people, with cultural practices like 'Ilaaf ilaammee', 'Jaarsummaa', 'Gumaa', and others deliver justice while restoring peace within the society than the modern criminal justice system. This article scrutinized provisions of the Ethiopian criminal code and its emphasis on peacemaking compared with the Gadaa system. Necessary data is gathered from literature and black letter laws. These laws include the criminal code, criminal procedure, and criminal policy of Ethiopia the main sources for the analysis of criminal law. Relevant literature on the Gadaa system of dispute resolution is intensively reviewed. The research method therefore is qualitative. The research finding shows Ethiopian criminal law is exiguous on restorative justice; while the Gadaa system is effective in restoring peace while delivering justice. This in turn calls for inclusion and adequate accommodation of the Gadaa dispute resolution method in Ethiopia's criminal law. Lawmakers need to amend the criminal code and criminal procedure to adequately accommodate Gadaa practices of dispute resolution that restore peace and maintain social cohesion while delivering justice.

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Introduction

Social norms and disputes are as old as human society.[1] Every human society has norms that regulate relations of its members. Conflict or disputes are as old as human society. Disputes could be of civil or criminal nature. Prior to the emergence of the modern state and its formal justice system, human society had customary rules, procedures, and institutions through which disputes were resolved.[2] When a dispute arises, particularly in criminal cases, the main stakeholders involved are victims, offenders, and the community within which the crimes had been committed. Reconciliation is the main justice administration process in customary dispute resolutions. Scholars like Elechi[3], Llewellyn & Howse[4], Van Ness,[5] and Zehr[6], apart from being the community-based, customary justice systems aimed at restoring the dismantled relationships by providing reparation to the victims for the harm caused to them by the crimes. Reintegration of offenders with the community is another aim of the customary justice system.

While Ethiopian societies have used their own mechanisms of dispute resolution methods since ancient times to nowadays, the government has established the so-called modern criminal justice system which is characterized as a retributive one. In Ethiopia, particularly when it comes to criminal matters, diverse indigenous justice systems operate de facto without state recognition. Hence, the two systems (the modern justice system; the system imported from westerns which indigenous people see as alien to them, and the customary justice system) coexist in an uneasy relationship. Customary dispute resolution mechanisms not only solve disputes between parties but also maintain peace and social cohesion in the community. Such kind of dispute resolution mechanisms therefore are hailed as restorative justice which currently is gathering monuments even in western countries.

The Oromo, for instance developed the *Gadaa* system long ago which governs all aspects of their life. Long before the emergence of the modern state and its formal justice system, people had their own varieties of customary practices through which they settle conflicts and build peaceful coexistence. The *Gadaa* system is one of the interesting ways of conflict resolution institutions and is well respected among the Oromo community in Ethiopia.[7] After the

[1] Aberra Degefa Nagawo, Beyond the Individualization of Punishment: Reflections on the Borana Oromo's Collective Criminal Responsibility, HARAMAYA LAW REVIEW 6 (2017): 29-42.

[2] Aberra Degefa Nagaw. (2013) the Impact on Offenders of Rivalry between the Formal Criminal Justice System and the Indigenous Justice System: Experiences among Borana Oromo in Relation to the Crime of Homicide.

[3] Elechi, O.O. (2004). Human rights and the African Indigenous justice system, A paper for presentation at the 18th International Conference of the International Society for the Reform of Criminal Law, August 8-q2, 2004, Montreal, Quebec.

[4] Llewellyn, J. J. & Howse, R. (1998). Restorative justice – a conceptual framework. Law Commission of Canada.

[5] Van Ness, D. (2005, April). An overview of restorative justice around the world. Eleventh United Nations Congress on crime prevention and criminal justice. Bangkok.

[6] Zehr, H. (1990). Changing lenses: A new focus for crime and justice. Scottsdale: Herald Press

[7] Desalegn Chemeda, Seleshi Awlachew, Regassa Ensermu, Mukand S. Babel, and Asim Das Gupta, (2007). Indigenous system of conflict resolution in Oromia, Ethiopia. CAB International Water

formation of modern Ethiopia, laws that govern the social life of its people are transplanted from Westerns putting aside mechanisms developed by the community.

Currently, the criminal justice system applies whenever a crime is committed. Ethiopian criminal law sees crime as an offence committed against the state and focuses on punishing such acts to deter others. Nowadays, the Ethiopian criminal justice system is criticized as it gears towards punishment rather than restoring peace and maintaining social cohesion. Every justice system including ours aims at delivering justice to the needy and maintaining social cohesion. This in turn calls for restorative justice practices. Looking for such practices in indigenous knowledge and modern law and filling gaps in law in that regard is the purpose of this research. As far as my knowledge is concerned I did not find any research that compares and contrasts restorative justice in the Ethiopian criminal justice system and the *Gadaa* system of conflict resolution.

1. Problem Statement

Apart from the formal criminal justice system, societies have their own customary ways of dealing with dispute whether it is of crime nature or civil matters. This kind of practice exists everywhere in the world; especially in Africa. In Ethiopia, almost in all regions of the country, and especially in the remote and peripheral areas, these customary dispute resolution mechanisms are more influential and applicable than the formal criminal justice system, which is considered alien to traditional societies.[8]

In the Oromo society of Ethiopia, the customary norms are more strong, relevant, and accessible to the people than the formal justice system which is blamed for the dalliance of justices. Moreover, experiences in different regions of Ethiopia show that people, even after passing through the procedures and penalties in the formal criminal court, tend to use the customary dispute resolution mechanisms for reconciliation and in order to control acts of revenge. Especially in the western part around West Showa zones where I served as public prosecutor, a criminal who committed an act of homicide cannot safely live coming home after finishing the penalty imposed on if not finished reconciliation process through *Gumaa* practice. There is an incident which I remember being a public prosecutor who was killed by a relative of a victim of homicide after coming out of prison serving five years of punishment for the crime he committed. This is because the formal justice system simply punishes the criminal leaving the wound unhealed which makes the formal justice system non-restorative.

On the other hand, what the westerner opt to say is traditional or informal dispute resolution massively practiced in Ethiopian society even more liked than the formal justice system restore peace and at the same time resolves conflict between disputant at individual as well as clan level. Such solving problem-solving institutions and practices

Management Institute (IWMI) ILRI – Ethiopia Campus. Addis Ababa.

[8] Macfarlane Julie. (2007) Working towards restorative justice in Ethiopia: Integrating traditional conflict resolution systems with the formal legal system. Cardozo Journal of Conflict Resolution, 8 (487), pp. 487–509.

were not given the places it deserve in the modern criminal justice system of Ethiopia; even though the primary objective criminal justice system is to bring peace and order to the state and the people of the country. Looking for alternatives to the formal criminal justice system available to bring sustainable peace within the society is therefore very crucial. This research is also triggered to search for alternatives that Ethiopian societies have been practicing to solve disputes and restore peace when it is ruined by conflict.

2. Objective of the Research

This research intended to explore a better method that helps to resolve disputes while healing the wounds of victims of crime. By doing that, the legal gaps of the current criminal justice system are meant to fill. The primary objective therefore is to examine indigenous dispute resolutions people have been using despite formal recognition by the legal system. It also examined the legal gaps the Ethiopian criminal justice system has to bring restorative justice which is a gathering monument in the current world view. In general, through identifying legal gaps in our criminal justice system and revealing customary practices of dispute resolution that bring restorative justice in society; the researcher wants to bridge the gap making it the objective of the research. What we call the integration of indigenous dispute resolutions into the Ethiopian criminal justice system enhances functional contributions in solving disputes and serving justice, peace, and stability in the community.

3. Methodology of the Research

This is a research into law where much time is devoted to textual analysis of laws in discussion. It is, therefore, a desk research that demands doctrinal legal research methodology. Doctrinal research methodology is employed since it is the appropriate methodology for this kind of study. The feasibility of doctrinal research methodology been proved long years ago for research into law. In the early nineteenth century, Christopher Langdell argued "Law is a science; indeed a science with its own principle or doctrine calling it 'legal science', and the law library as a 'lawyer's laboratory" in combating critics against doctrinal research methodology from physical sciences. According to him, the 'Library to legal researchers is what a laboratory is to the chemist or the physicist, and what a museum is to the naturalist'[9] and, therefore, doctrinal analysis has been and still is the dominant legal research methodology.

From its very nature, textual analysis of laws in discussion is mandatory, and the right methodology for law research that analyzes laws and existing literature about the restorative practice and conflict resolutions that Oromo societies have been using since time immemorial. Therefore, the researcher primarily devotes much time to expounding provisions of criminal policy document documents, criminal laws, criminal procedure, and analysis of materials on *Gadaa* and restorative related justice-related issues.

[9] Terry Hutchinson. (2015) The Doctrinal Method: Incorporating Interdisciplinary Methods in Reforming the Law; ELR December 2015 | No. 3 - doi: 10.5553/ELR.000055, 131.

4. Results and Discussion

Under this section discussion on analysis of different laws, criminal policy and different customary dispute resolution mechanisms such as *Gumaa*, *jaarsummaa* and *ilaaf ilaammee* that has been there for a long time are made.

4.1.Analysis of the Ethiopian Criminal Justice System on Restorative Justice

Ethiopia's criminal justice system sees crime as an offense against the state and views justice is served when the offender is punished. The reading of the first article of the FDRE criminal code reveals this. It says, *"The purpose of the Criminal Code of the Federal Democratic Republic of Ethiopia is to ensure peace and security of the state, its people and inhabitants for the public good."* The code believes this purpose can be maintained through the punishment of deviants to deter them and others from further committing crimes. In the criminal justice system the participation of victims and society in the process is limited to the extent of giving testimony about the crime and the outcome is win-loss. Such a kind of justice system is known as retributive in the literature. In retributive justice, healing the victim's wound and building peace in the community is not an issue. The practices of in the current Ethiopian criminal judicial system look like retributive.

a) Restorative Justice in Criminal Justice Policy

Ethiopia developed its criminal justice policy document in 2015. In the document, restorative justice elements are introduced, and customary dispute resolution is allowed when some preconditions are fulfilled. These preconditions include repenting, asking apology, readiness to compensate the victim, and the like. As explained in the introduction of the criminal justice policy, the purpose of its enactment was to make the criminal laws in harmony with the constitution, to modernize the existing criminal laws, to ease the complex procedure of conflict resolution, and to establish a strong criminal justice system that is efficient and effective to name a few. In the preamble of the policy, we find a reason for such policy which reads as follows:

> *በሥራ ላይ ያለ ሕጎችን ከሕገ መንግሥቱ ጋር ለማጣጣም ብዙ ሥራዎች የተሠሩ ቢሆንም ከወንጀል ፍትሕ ሥርዓቱ ተጨባጭ ሁኔታ አንፃር ሲታዩ ግሌጽነት የሚጎድላቸው፣ ኋላቀርና መሠረታዊ ክፍተት ያለባቸው፤ የፍትሕ አካላት ሀጎብረተሰቡ እና ህገመንግሥት የሚሰጡት አገሌግልት በግልጽነት፣ በተጠያቂነትና በፍትሐዊነት መርሆች ላይ የተመሠረቱ አለመሆን፤ ሂደቶቹም ረጅም ጊዜ የሚወስዱና የተንዛዙ፣ ኋላቀርና ከፍተኛ ወጭ የሚያስከትል እንዱሁም ከቢሮክራሲያዊ አደረጃጀትና አሠራር ዘይቤ ያሌተሊቀቁ በመሆናቸው ችግሮቹ መፈጠር በተጨማሪ እንደመንስዔነት ሉጠቀሱ ይችሊሌ። በፍትሕ አካላት መካከሌ ሉኖር የሚገባው ህገራዊ ራዕይ ሊይ የተመረኮዘ የሥራ ትብብርና ግንኙነት በሚፈሇገው ደረጃ ያሊመኖር እና በመሰኩ የተሠማሩ ባለሙያዎች የአመሇካከት፣ የሥነምግባርና ሙያዊ ብቃት ደረጃ አነስተኛ መሆን እና የመሳሰለ ጉዴሇቶች በፍትሕ ሥርዓቱ ውስጥ ሇተፈጠሩ ችግሮች በመንስዔነት ሉጠቀሱ የሚችለ ናቸው።*[10]

[10] The FDRE Criminal justice policy /የኢትዮጵያ ፌዯራሊዊ ዱሞክራሲያዊ ሪፐብሉክ የወንጀሌ ፍትሕ ፖሉሲ ፍትሕ ሚኒስቴር የካቲት 25/2003 ዓ.ም.

The literal translation of the above quote from the criminal justice policy of Ethiopia is as follows. "Even though many works have been done to harmonize existing laws with the constitution when viewed from the perspective of criminal justice policy, they lack clarity, are backward, and have fundament gaps. The services provided by the judiciary to society and the constitution are not based on the principles of transparency, accountability, and justice. The processes take a long time, are complicated, and incur high costs as well as they are independent of the bureaucratic organization and operation style. Working in cooperation and communication based on the national vision that should exist in the judiciary is not at the required level and the level of attitude, ethics, and low professional competence of the professionals in the field can be cited as problems created in the justice system."

From this one can understand that, it seems possible to use both formal and informal justice systems to bring justice and peace to inhabitants for the general public good as set in the very first article of the Ethiopian criminal code. Yet customary dispute resolution is allowed only if the crime committed is petty, the offender is youth, disabled, or non-recidivist. This shows that criminal policy merely recognize restorative justice and gives discretion to the prosecutor to allow or not to allow criminal act to be solved through the customary practice of the judicial system under section 3.12 (c) of the policy document. The document under section 4.6.1 indicates the need for other laws to recognize restorative justice.

b) Restorative Justice in Criminal Code

In its very first Article, the FDRE criminal code aims ensuring peace and order through punitive measures. It seems such measures prevent crimes as their deterrence effect is high. The code sees punitive measures deter future criminals as they fear punitive measures incorporated in the criminal code. Once a criminal is punished for an office he/she committed, others will take lessons from such a person according to this criminal code. Thus, the current Ethiopian criminal law views punishment as the main instrument to prevent crimes. However, mere imposition of punitive measure cannot be constructive and bring social cohesion and peace and order which is the main objective of criminal code.

In the criminal code, nothing is done to help the victim restore and repair the damage caused to him/her by the crime, and the community is excluded from participation in the process of the justice system and the ownership over criminal matters. Mere punishment does bring justice and uphold social cohesion when the community is sidelined in resolving such disputes. With the exception of limited provisions with restorative justice nature, due attention is not given to restorative justice in the Ethiopian criminal code. Some of limited provisions that have restorative principles are:

Provisions in the criminal code that talk about failing to bring a criminal matter to justice organs when it can only be initiated upon complaint; A provision like mitigating circumstance in sentences when a criminal has repented and apologized; paid compensation to victims of crime. In such cases, courts are expected to reduce the penalty while sentencing. Probation is

another provision in the criminal code that can be equated with restorative justice. Probation is a release of a convicted offender under the supervision of a probation officer subject to revocation upon default of the conditions attached to his release pursuant to Articles 190-199 of FDRE criminal code. Parole also has restorative elements. What we call parole is granted by the pardon committee after receiving recommendations from the prison administration and taking into consideration of the behavioral reform of the criminal. One may see the details of Article 202 of the Criminal Code. Such limited provisions may not bring restorative justice; a justice that repair the wound of victims of crime and at the same time punish the wrong done.

c) Restorative Justice in Draft Criminal Procedure Code

The newly drafted criminal procedure gave large converge for restorative justice. For instance, it talks about the importance of restorative justice unequivocally under different articles like 158, 162, 163, 170, and the like to mention a few. It highlighted the importance of restorative justice; saying it is important to protect the right of victims and involve the societies in the justice system. According to this provision, therefore, the law enforcement/law-executing body can apparently apply restorative justice.

Its application is not limited to crimes initiated up on complaints but also on accusation. The problem is that, the procedure is yet to be approved by law law-making body and it is inapplicable as of now. Generally, despite little development of the restorative justice concept in the Ethiopian criminal justice system, there is the potential for legal development with regard to restorative practices that most of the Ethiopian people apply in their day-to-day activities. Such can meet the needs of its population and reflect its cultural heritage. This shows the availability of restorative justice principles in the draft criminal procedure that has been on draft status for almost a decade.

4.2.*Gadaa* System and Restorative Justice

There is no consistent and universally accepted definition of restorative justice. However, working definition is given by Cormier: as such, "Restorative justice is an approach to justice that focuses on repairing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by a crime-victim(s), offender and community".

The Oromo people have developed a uniquely democratic sociopolitical structure known as *Gadaa*." The *Gadaa* system governs all aspects of the Oromo people's life. This includes mechanisms for dispute settlement. Different conflict resolution mechanisms; such as *ilaaf ilaammee, jaarsummaa, gumaa* (kwon as *gondooroo* in *Gujii*) are among dispute resolution mechanisms that Oromo people utilize. And they have similarities with the above working definition of Restorative Justice. Values of Restorative Justice are practiced by the Oromo and almost all parts of the country through different dispute resolution mechanisms that are developed as a part of the *Gadaa* system.

a) *Gumaa* as Restorative Justice Practices of Conflict Resolution

The term *gumaa* is stands for many things in Oromo people. It could mean compensation, revenge, or reintegration of departed people for killing practices. It stands in this paper for reintegration. Through *Gumaa*; Oromo people restore peace in the community that waits to avenge the death of one relative by killing relatives of the killer. Modern criminal law only punish killer by imprisonment without reconciling societies and there are instance where victim are avenged even after the release of a criminal from prison cell. In this regard customary practice therefore better serves restorative justice than modern criminal justice system.

b) *Jaarsummaa* as Restorative Justice Practices of Conflict Resolution

Among the Oromo, *Jaarsumma* is an establishment that deals with all kinds of disputes ranging from simple quarrels to the most serious criminal cases, even homicide. *Jaarsummaa* is one of the institutions that the Oromo people used to resolve the conflict arising among people. A respected reliable person usually called ***Jaarsa biyya*** plays an important role in reconciliation practices and implement the rule and regulation needed for peace settlement. This is one of the valuable cultural practices that have been with the Oromo people since Oromo was born. The term '*jaarsaa*' in *Afaan Oromo* language literally means 'an old man'. However, in *jaarsummaa* context, it refers to mean that men take part as selected respected representatives of the community and have deep knowledge to settle the uprising as mediators whenever there is a dispute or conflict (Irshad & Muleta, 2018). Depending on the particular area of the Oromo people, different terms are used to refer to these elders. They are simply called *jaarsa biyyaa*, *jaarsa* or *jaarsa araaraa* (Dejene, 2002).

Jaarsummaa is used as a reconciliation practice where *Jaarsi biyyaa*/elders play an important role in settling disputes between disputants. This is cultural practices used to solve any kind of dispute criminal or civil matters. In *Jaarsummaa*, respected elders are selected by conflicting parties and solve the problem bringing the parties together. Elders can decide on compensation for harm caused by the offender. Once the dispute between the parties is settled by *Jaarsummaa* fearing for revenge or further conflict is gone. It therefore brings peaceful coexistence of societies which also repair damage caused by crime. As it repairs harm caused by the offender, the parties won't wait time to avenge each other anymore. This means once the dispute is resolved, it restores the relationship that is damaged by the wrong done. So, dispute resolution through *jaarsummaa* brings restorative justice unlike the one given through a formal justice system that simply punish criminal and leave the victim unhealed.

c) *Ilaaf Ilaammee* as Restorative Justice Practices of Conflict Resolution

Ilaaf Ilaammee is the Oromo dispute resolution mechanism where disputants themselves come together and settle their disputes. *Ilaaf Ilaammee* resolves conflicts of a minor nature. In the criminal justice system such may work when a crime that must be initiated up on complaint is left without being brought to the attention of the prosecution.

In general, the above Oromo ways of conflict resolution reflects the values of restorative justice and is good since it helps victim get

redress in addition to delivering justice. It also makes offender feel sorry for committing a crime. By contributing on the reintegration of offender to society and avoiding revenge the use of traditional conflict resolution methods mentioned above helps in reducing commission of crime. Moreover, it maintains social cohesion and peaceful coexistence even at the existence of crime and criminal acts.

5. Conclusion and Recommendation

5.1 Conclusion

Even though human beings and conflict have been coexisting, conflict demands proper management. If not properly managed, conflict may result in political, social, and economic destruction of human beings. Its cost therefore, depends on the type of resolution system that individuals use to settle disagreements. Restorative justice views criminal conflict as an injury or violation of the relationship between victims, offenders, and community members and the 'property' of those involved in the conflict.

The criminal justice system views crime as an offense against the state and aims at punishing criminals to maintain peace and order. However, it is hardly possible to maintain peace and order by mere punitive measures. Searching for indigenous conflict resolution is very important. This article compared availability of restorative values in Ethiopian criminal justice system and the *Gadaa* system based on the analysis of pertinent legislation and relevant literature on restorative justice. Restorative values are more available in the informal justice system than in formal criminal justice systems in the current Ethiopia in general and in the Oromo people in particular. The values of restorative justice are more practiced in the *Gadaa* system of conflict resolution than in the criminal justice system in general and criminal laws of Ethiopia in particular.

5.2 Recommendations

The criminal policy of Ethiopia envisioned the need for the amendment of substantive as well as procedural laws to include restorative justice in our legal system. However, such amendment of the laws is yet to be done.

Therefore, it is recommended that the House of Peoples Representatives amend the criminal code and include restorative justice practices used in the *Gadaa* system or put an article that empowers the justice sector to utilize customary practices of restorative justice.

- The draft criminal produce needs to be approved to enable utilization of restorative justice included in the draft document.
- Justice sector professionals need to be trained to utilize restorative justice to maintain peace and order which is the objective of criminal law.
- All concerned bodies; including universities, Governments both federal and regional, have to develop projects that enhance customary institutions working on restorative justice.

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Original Article

Ensuring the Right to Access to Justice through Free Legal Aid Service: Assessing Challenges and Prospects in the Benishangul-Gumuz Regional State

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Abstract

The right to access justice is one of the rights of human beings incorporated in different national and international human rights instruments. The right, when compared to other groups of human rights, is different in many ways. The main difference is that it is a bundle of rights that is vital in the enforcement of the rest of the rights. Absent the right to access to justice, it is hardly possible to ensure the implementation of the rest of human rights. On the other hand, the mere fact that the government makes justice institutions accessible doesn't guarantee the realization of the right to access justice. There are still many factors that limit the members of the community from accessing justice. Economic &physical status, gender, and other different factors can make some members of the society less capable. This research, hence, is aimed at evaluating the challenges and opportunities in the Benishangul Gumuz Region in terms of ensuring access to justice. In particular, the research identifies the extent of demand for free legal aid services in the region and the degree to which these demands are being met. The research identifies available legal frameworks in the provision of free legal aid services to the indigent /vulnerable/ groups of society. Moreover, the research, based on empirical data, will identify factors that have limited the vulnerable group from accessing the service providers as well as factors that limited free legal aid service providers from accessing the beneficiaries.

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1. Background of the study

The notion of justice has been a subject of debate among scholars since the times of Plato (428-327 BC) and Aristotle (384-322 BC) to the late 20th C John Rawls theory of justice (1921-2002 AC) and even among today's political philosophers. The concept of justice encompasses economic, political and social issues in the political philosophy. It may refer to distributive justice, procedural justice, restorative justice, or retributive justice among others. In these senses, it refers to a fair share of economic resources, fair processes in decision-making, and responsibilities for wrongdoings and restoring offenders to law-abiding lives respectively. For the purpose of this research, when we talk about access to justice or 'justice' in particular, we are referring to legal justice, a concept that embraces all the classifications and implies the individual and group rights of citizens to access an impartial body in a political institution to have their claims heard and decisions made properly.

In this sense, there is no concept as important as the concept of the right to access to justice in modern democracies and the contemporary human rights system. The concept is also raised often in almost all global, regional, and national human rights documents as one part of human rights and its instrumentality as a means to the end is indisputably accepted. Yet, the definition of the concept of access to justice is not an easy task and, in fact, one cannot find a universally accepted definition of the notion. Access to justice refers to the system or modus operandi for ensuring the realization of rights for all citizens by alleviating the obstacles thereof. Garth, Bryant G. and Cappelletti, Mauro, in their article entitled "Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective" define access to justice as "the system by which peoples vindicate their rights and/or resolve their disputes under the general auspices of the state."[1]

The right to access to justice is part and parcel of the contemporary human rights system and it is embodied in different human rights documents at international, regional, and national levels. Justice is a nucleus of democracies and the rule of law. As a means and as an end per se, access to justice is an important pillar for democracies and the rule of law to exist and persist.

The United Nations referred to the right to access to justice as 'a basic principle of rule of law'. It further stated that in the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination, or hold decision-makers accountable.[2] *The right to access to justice is a procedure and instrumentality through which violations of rights can be*

[1]Garth, Bryant G. and Cappelletti, Mauro, 'Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective', 1978, vol.27, pp. 181- 289, p.182 available at https://www.repository.law.indiana.edu/facpub/1142. [Here in after referred, Garth, Bryant G. and Cappelletti, Mauro, Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective]

[2]https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/

stopped and damages made good. It is a procedure that guarantees individuals to bring their claims before a competent democratic or bureaucratic institution that can offer a binding decision in various spheres of life.

On the other hand, the mere fact that the government makes justice institutions accessible to the public doesn't guarantee the realization of the right to access justice. There are still many other factors that limit the public or the members of the community from accessing justice. For instance, economic status, psychological status, gender, and other different factors can make some members of the society less capable thereby paving the way for the prevalence of injustice in the community.

Countries and legal systems design different measures to overcome such factors and to realize access to justice for the citizens. Among the measures taken by legal systems and countries is the creation of the system of pro bono service or free legal aid service given by registered advocates, law firms, CSOs, NGOs, and law professors. These systems practically enhance or increase access to justice, in particular, for the indigent as well as for vulnerable members of the community.

Hence, this research assesses the status of free legal aid services in the context of the right to access to justice in the Benishangul-Gumuz Regional State. In particular, it assesses the degree of demand for legal aid, especially from the perspectives of the vulnerable group of the society and it evaluates the challenges and opportunities in the Regional State in terms of ensuring access to justice. The research also identifies key service delivery problems from the side of service providers –institutions and individuals such as the University Law School and practicing lawyers who are given the obligations and responsibilities of providing free legal aid service to the community.

2. Method

The study employed qualitative research method. Accordingly, the study relied on international, national, and regional legal and policy documents as well as other primary information from stakeholders gathered through questionnaires, interviews, and observations. Finally, an analysis was made about the existing legal framework, degree of awareness and demand on the side of the citizens as well as the current status of the existing institutions in terms of providing free legal aid service to the deserving segments of the society in BGRS.

3. Legal Frameworks Governing Access to Justice and Provision of Free Legal Aid

3.1 The Revised Regional Constitution of 1995

One of the regional legal grounds providing for the right to access to justice is the regional constitution itself. This legal document is a basic document that establishes the regional government by providing for the establishment of the regional executive, legislative, and judiciary organs. The constitution, in a very similar fashion to the federal constitution, enumerates many civil, political, economic, and social rights of the regional states' residents.

It is a remarkable achievement to have the provision dealing with the right to access to justice of the citizens in the constitution. One

such provision is Article 38 of the Constitution. The provision reads as follows: -

Right to Access to Justice

1. Everyone has the right to bring a justiciable matter to and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.

2. The decision or judgment referred to under sub-Article 1 of this Article may also be sought by:

(a) Any association representing the Collective or individual interest of its members; or

(b) Any group or person who is a member of, or represents a group with similar interests.

The significance of this provision is the recognition of the right to access to justice per se. The basis of free legal aid services is the right to access justice itself. Access to justice is the way that rights are protected and obligations are enforced. Conferring rights or duties doesn't serve any purpose if there is no means to protect and/or enforce them.

The exact term with reference to legal support, however, like the federal constitution, is found and relates to 'the right of accused person'. This implies that the provision of legal aid seems to have been given more emphasis in the criminal case. This may have its own justification seen from the lenses of the drafters. However, this shouldn't be interpreted to mean the Constitution doesn't recognize legal aid in civil cases at all.

3.2 Regional Proclamations and Laws

3.2.1 Benishangul –Gumuz Regional State Courts Establishment Proclamation (Proclamation No 163/2019)[3]

This proclamation is one of the latest regional laws that were put in place in 2019 by the regional state council. The very aim of the law is, to use the words of the proclamation, to enable the regional courts to "provide efficient, effective, and accessible judicial service based on the principles of rule of law, transparency and accountability. One of the significances of this proclamation from the perspective of the right to access to justice and free legal aid is that it unequivocally provides for the opportunity of defense lawyers for individuals who cannot afford to hire their own defense lawyers.

Article 24 of the proclamation provides as follows:

Every person has the right to be presented by a legal counsel;

The court shall provide a defense attorney at state expense for indigent defendants where a miscarriage of justice may occur in the absence of a deference attorney.

Under Article 18, the proclamation further provides that the defense counsel shall have the duty to provide legal counseling services and plead for indigents whenever required. The proclamation further states that, in consultation with his clients, the defense lawyer can plead or appeal his protests on court orders or decisions rendered against the interest of the accused in accordance with the law.

[3]The re-amendment Proclamation of the Benishangul –Gumuz Regional Courts Establishment Proclamation , Proclamation No 163/2019, 25th Year, No 163, 2019.

Of course, it can be inferred from the law that the role of the fence lawyers is limited to activities in the courts of law. This means their responsibility is to represent the indigent in the court of law when ordered to do so by the court. However, the significance of the availability of such opportunities cannot be undermined in the effort to ensure equal access to justice for everyone.

3.2.2 Benishangul –Gumuz Regional State Attorney General Establishment Proclamation (Proclamation 161/2018)

One of the regional laws issued to strengthen the regional justice system is the Regional State Attorney General Establishment Proclamation. The office of the Attorney General is an executive government department that defends the interest of the wider public.

The proclamation was issued in 2018 GC with the objective of consolidating the fragmented public defense system under one effective executive attorney institution.

In ensuring the right to access justice, the mandate conferred on the office of attorney general is very wide. The task of administration of free legal aid services is given to this office. The defense counsel in the court or in the judiciary is basically administered by the court itself. Whereas the job of setting strategies, follow-up, and administration of free legal aid service by bodies, personnel, and institutions outside the judiciary is given to the attorney general. The Benishangul –Gumuz Regional State Attorney General Establishment Proclamation No 161/2018 under article 6(9) (e) states that the regional office of the attorney general is responsible for drafting free legal support rendering strategies, following the execution, coordinating bodies that engage in the sector and control them.

From this provision, we understand that the office has at least three main and broad tasks. The first is that it is responsible for issuing strategies that help to strengthen the free legal aid provision in the region. Second, it is responsible for the execution of those strategies put in place to strengthen the free legal aid services in the region. Third, it coordinates and manages entities and individuals engaged and interested in the provision of free legal aid services in the region.[4]

Moreover, this office is responsible for preparing a regional human rights action plan and following the execution of the same. It also has the mandate to issue advocacy licenses to advocates who want to operate in the region.[5]

3.2.3 Mandates of Kebele Social Courts

One of the institutions that have been given due attention in the recent past in the Ethiopian modern legal system is the kebele-social courts. The role that the social courts play in the justice system if supported well, is very significant. It is for this reason that the regional states in the Ethiopian Federation are giving more mandate and power to this lowest-level court. On one hand, their proximity to the community compared to woreda and higher courts makes them easily available and accessible to the community. This will have many implications for the poor

[4]The BenishangulGumuz Regional State Attorney General Establishment Proclamation No161/2018, Article 6(9) (e)

[5]Ibid. , article 6(8) & 6(9)(d)

and vulnerable members of the community. On the other hand, empowering social courts means easing the load of cases at the woreda level which was a common cause for delay of justice in Ethiopian courts.

One of the mandates given to the social courts and significant in the provision of free legal aid service is that they are given the mandate to identify and confirm eligibility requirements to qualify for free legal aid service. Article 24(2) states that the social courts can provide evidence of eligibility for legal aid services by evaluating the living conditions of the applicant. The provision reads as follows in Amharic:-

Art 24(2)ማናቸዉም ማህበራዊ ፍርድ ቤት በመንግስት አካላት ለሚሠጥ ነጻ አገልግሎት የአመልካቾቹን ትክክለኛዉን የኑሮ ሁኔታ አረጋግጦ ማስረጃ ልሠጥ ይችላል፡፡[6]

This could be translated as: 'Every social court shall have the mandate of providing accurate evidence of living conditions to individuals who seek the verification to get free legal aid service provision

This proclamation is important in easing the challenges that free legal providers are facing in terms of identifying the proper individuals who deserve free legal aid services.

The proclamation also provides that the social courts shall have the duty to provide free legal aid services to the indigent members of the community. Article 43(2) of the proclamation provides as follows: -

"በዚህ አንቀጽ ንዑስ አንቀጽ 1 ላይ የተደነገዉ ድንጋጌ እንደተጠበቀ ሆኖ ማንኛዉም የቀበሌ ማህበራዊ ፍርድቤት የከሳሹን ኑሮ ሁኔታ ከግምት ዉስጥ በማስገባት ነጻ የፍርድ አገልግሎት ሊሠጥ ይችላል፡፡"[7]

This could be translated as: 'Without prejudice to the provision under sub-article 1, a social court may decide to waive the payment of court fees considering the living status of the plaintiff.

3.2.4 Licensing and Administration of Attorneys who work in the Courts of Benishangul Gumuz Regional State and Private Legal Affairs Proclamation

The objective of this proclamation is to set a legal framework for the practice of advocacy services in the region. One of the legal requirements to practice law in a given legal system is permission. Likewise, the BGRS requires permission –an advocacy License – to practice law before its courts.

Accordingly, the proclamation provides that any person who wants to provide professional service of attorney should obtain an attorney license registered and issued by the regional justice bureau.[8] *In line with this, it provides for two types of advocacy licenses. These are the Main Advocacy License and Special Advocacy License.*[9]

According to Article 11, a special advocacy license shall be issued to anyone who will provide attorney service toward maintaining the rights and interests of society. The proclamation also recognizes that advocates with the main advocacy license can provide free services to protect the rights and interests of society without a need to obtain a special advocacy license.

[6]A proclamation Issued to Revise the Power and Duty's of the Kebele Social Court Establishment Proclamation, Proclamation No 126/2015, 21st Year, No 126, 2015 GC

[7]Ibid., article 43(4)

[8]Licensing and Administration of Attorneys who work in the Courts of Benishangul Gumuz Regional State and Private Legal Affairs Proclamation, proclamation No 151/2018 , Article 5

[9]Ibid. , article 8

3.2.5 Ambiguities and pitfalls of the proclamation

Despite the recognition of the admission of a special advocacy license, this proclamation does not expressly provide for individuals and entities that can apply for a special advocacy license. The Federal Advocacy Service and Administration Proclamation No 1249/2021 expressly provides for such individuals and entities that are eligible to get a special advocacy license. These are persons, organizations, law school instructors, and law schools that provide pro bono service to defend the interest of the public as well as to the indigent members of the community.[10]

3.2.6 Regulation to Licensing and Administration of Advocates and Private Paralegals in Benishangul-Gumuz Regional State[11]

This regulation can also be considered part of the recent legal reforms that the region has undertaken. It is one of the legal frameworks that address the issue of free legal aid in many aspects. This regulation provides for, among others: -

The requirements and procedures to get the different types of advocacy licenses;

The group of people that are eligible for free legal aid services;

The duty of advocates is to provide pro-bono service to the indigent members of the community & the effect of the failure to do so.

3.3 Persons eligible for free legal aid service and duty of advocates

3.3.1 Persons eligible for free legal aid service

The regulation provides the following individuals as eligible for free legal aid services[12] *:*

Persons living with HIV/AIDS and unable to move from place to place to pursue their cases, Minors who have lost their parents due to HIV/AIDS or aged parents who have lost their children due to HIV/AIDS, Those (members of the community) whose monthly income amount, where the evidence of daily, monthly or annual income resources and the amount they produce is calculated, is below birr 900 (nine hundred), Those who do not have non-fixed and fixed assets which can be considered as surpluses, Persons whom a court at hearing a criminal case require a free legal aid to be rendered

For those (members of the community) whose monthly income amount, where the evidence of daily, monthly, or annual income resources and the amount they produce is calculated, is below birr 900 (nine hundred and for those who do not have non-fixed and fixed assets which can be considered as surpluses the regulation requires this fact to be approved by social courts.[13] *It has to be noted that individuals with an average monthly income of 900 Birrs and above are not eligible for free legal aid services even if they do not have any fixed or non-fixed assets which can be regarded as surpluses. In other words, the requirements cannot be cumulative.*

[10]The Federal advocacy service and administration proclamation No 1249/2021, year 27, No.42 article 14

[11]Regulation to Licensing and Administration of Advocates and Private Paralegals in Benishangul-Gumuz Regional State, Regulation No.144/2019

[12] Ibid., Art 15 & Art 18

[13] Regulation 144/2019, Article 18(c)

3.3.2 Other costs

The law provides free legal aid service opportunities for the indigent members of the community. What is free is the professional service to be provided by the advocate. However, it is obvious that there are other costs that the beneficiary incurs. These are costs related to transport, photocopy, and other similar expenses. The laws expressly provide that these costs are covered by the beneficiary himself/herself.[14] *The problem with this provision however is that what if the beneficiary is not in a position to cover such expenses? What alternative does he or she have? This is a challenge that the advocates frequently face in such services.*

3.3.3 System of control and Standards of service

With regard to the system of control and standards of service, articles 19, 20 & 21 of the regulation are very important. With regard to the system of control, the regional advocates association or offices of the attorney general will register the service seekers and distribute it to the advocates in the region. Article 19 seems to talk about special advocacy licenses when we look at the title. But it talks about advocates with main advocacy licenses as well. It seems to have happened because of poor drafting.

The calculation of time provided under Article 17 also is helpful to objectively evaluate whether the 50-hour requirement (for those who hold the main advocacy license) is properly met. For instance, the preparation of a contractual agreement is expected to be completed in one (1) hour. Preparation of an establishment document or a memorandum is expected to be completed in two (2) hours. Preparation of pleadings (statement of claim or defense) is expected to be completed in one and a half hours. Representation of the client in the court of law is determined based on the evidence to be produced by the advocate etc. These are important standards to ensure the proper use of the allocated time obligation.

3.3.4 Ambiguities and pitfalls of the regulation

One of the ambiguities under the regulation is found under Article 15. This provision, save the organizational problem as it is, provides for two groups of people who deserve the service. One is Persons living with HIV/AIDS and unable to move from place to place to pursue their cases and the others are minors who have lost their parents due to HIV/AIDS or aged parents who have lost their children due to HIV/AIDS.

It is difficult to take the contrary reading of Article 15 as true for granted. What if a person who is HIV/AIDS positive but can move from place to place to pursue his/her case came seeking a free legal aid service? The assumption however seems that if such individuals are capable enough to pursue their cases, saving the threshold of 900 ETB average in terms of income as it is, there is no need to render a free legal aid service.

The other shortcoming of this regulation is its failure to expressly include old age as one eligibility ground. Persons of old age are vulnerable groups in the community especially when there is no one to take care of them. It does not seem fair to exclude this

[14] Art 21(3) of Regulation No144/2019

group of people even though they have an average monthly income which is 900 ETB.

In general, as mentioned earlier, professional lawyers or firms with special advocacy licenses shall have the obligation to provide a legal service free of any charge devoting all their time.

Whereas professional lawyers or legal firms with the main advocacy license do have the obligation to provide a pro-bono service for at least 50 hours per year, Art 32(4)(b) of proc No 151/2018.

4. Findings from empirical data

To assess and identify the key challenges and opportunities in ensuring the right to access to justice through free legal aid service in Benishangul-Gumuz regional state we have used different data collection tools. We have used both primary and secondary data. We have consulted International, National, and Regional Policy and Legal frameworks with relevance to access to justice and free legal aid services. We have also mainly used a questionnaire to address a representative number of respondents including from remotest areas of the region. Accordingly, First-hand information was gathered from 109 community members and civil society organizations from our sample areas - Assosa, Bambassi, Homosha, Kurmuk, Oda, Yasso, Kamash , Mandura& Bullen. We have also included 107 Judges, public prosecutors, and police officials from the region. Information was also gathered from 6 Advocates, 11 Law school professors, 3 NGOs, 5 government offices, 1 higher education institution, and 1 independent government organization. Two focus group discussions among the stakeholders from the region were also held and the findings of this research will be presented in this chapter in a brief way.

4.1 Legal Awareness

One of the questions we raised was whether our respondents have had enough legal knowledge or legal awareness about their human rights and duties. About 52% of our respondents responded that they do not have a legal awareness of their human rights and duties. Perhaps, the fact that we have collected the information from community leaders and known community members had an effect on this result. We believe that if data is collected randomly the percentage will increase. Because there are obviously there are many opportunities for such members of the community to get legal awareness. 52% yet is a significant number to demonstrate how legal awareness is still important to the community.

Regarding their status as to whether they can afford to hire their own lawyer in cases of violations of rights or claims for the same, 91% of them responded that they cannot afford it. This indicates the high demand for free legal aid services and the low economic status of the community. The other question we raised is whether they have information about the existence of free legal aid providing individuals and institutions. 55% of our respondents responded that they do not have know-how about the existence of such schemes.

4.2 Availability of institutions and professionals

We have also tried to identify whether free legal aid-providing institutions and individuals are available around our sample areas. 63% of our community member respondents responded that they do not have

free legal aid provided to individuals and institutions in their locality. Given the fact that we have collected data from very few areas that we can access easily, the figure demonstrates how bad the situation could be in the remotest woreda's and kebeles.

With respect to the sufficiency of free legal aid provision in the study area, our data suggest that there are a great majority of members of the community who are left without legal remedies in cases of violations. Among the research respondents from judges, public prosecutors and police which are 107 in number, fifty-four of them (i.e., 50.46 percent) answered that they see vulnerable groups were left without legal remedy in cases of human rights violation by different actors. Sixty of them or 56.07 percent of the respondents responded that there are no free legal aid centers available to work on the protection of rights of the vulnerable group in their locality.

4.3 Need for legal aid services

Among the institutions operating in the region with the main or subsidiary purpose of providing free legal aid service, 1 institution directly provides the service, 1 institution provides the service while also supporting others who/ provide the service, and 4 institutions support those who/ provide the service.

Similarly, more than 99% of our respondents from the community expressed that they highly need the availability of free legal aid schemes in their locality. This figure corresponds with the result of a similar question presented to our free legal aid-providing individuals and institutions. 100% of our respondents from both NGOs and government institutions believe that there is a high need for free legal aid service schemes in society. 100% of them also believe that the legal aid service being provided in the region is not sufficient.

A hundred percent (100%) of practicing lawyers who are engaged in the advocacy service in BGRS and included in our sample responded that there is a great need for free legal aid services in the study area. They observed in their engagement that too many victims of human rights violations were left without a remedy.

4.4 Factors that affect or affected the provision of free legal aid service in the region most

In this research, we have also measured factors that affect or affect the provision of free legal aid services in the region. The result is presented in the following table: -

Variables	***Measurements***			
	H (%)	***M (%)***	***L (%)***	***VL (%)***
Few numbers of FLAS Providers	*89.47*	*5%*	*0%*	*0%*
Low performance among the FLAS providers	*78%*	*21%*	*0%*	*0%*
Lack of awareness about FLAS among the community	*74%*	*21%*	*0%*	*0%*
Lack of awareness about basic human rights concepts	*47.36*	*42%*	*10%*	*0%*
Inaccessibility and poor infrastructure	*68.42%*	*26.31%*	*5%*	*0%*

Table 1:1 Data from responses of stakeholders

The finding indicates the inadequacy of the number of free legal aid service providers and underperformance among the institutions and organizations engaged in free legal aid services. Lack of awareness about basic human rights concepts and the availability of free legal aid service schemes for the indigent and vulnerable groups of the community is also very significant. Moreover, inaccessibility which is mainly attributable to the existing poor infrastructure in the region is also significant.

4.5 Challenges and opportunities available in the law school

One of the immense potentials in the provision of free legal aid services is available with law schools of higher education institutions. Accordingly, we have tried to measure challenges and opportunities in the law school of one higher education available in the region which is Assosa University Law School. The finding was presented as follows: -

Variables	***Measurements***			
	H (%)	***M (%)***	***L (%)***	***VL (%)***
Incentives (transport, top-up, recognition, etc)	*100%*	*0%*	*0%*	*0%*
Workload and other teaching-related tasks	*100%*	*0%*	*0%*	*0%*
Poor infrastructure, logistics, and hard weather	*85.7%*	*14.28%*	*0%*	*0%*

Table 1:2 Data from responses of Law School instructors

The finding indicates that the incentives from the university to the law school professors in their legal aid service provision are affecting their engagement. At the same time, the workload the professors have in relation to teaching and research is also affecting the engagement in the free legal aid provision. Moreover, poor infrastructure, poor logistic availability, and hard weather are also factors that are highly regarded as barriers to the full engagement of the school staff members.

4.6 FGD

Two focus group discussions (FGD) that engaged different stakeholders at the regional level were also conducted as part of this research. The FGD included the justice bureau, women, children and youth affairs bureau, regional courts, NGOs, and Civic Society Organizations operating in the region.

The issues raised by the participants during the FGDs are presented under two categories as follows.

4.6.1 Participants from the justice sector and legal aid providers

Though there are promising beginnings there is no coordination and cooperation among the stakeholders to the required degree;

There is a forum to coordinate and bring together the different stakeholders for the better delivery of the service by sharing available resources;

Lack of training for the service providers on the free legal aid programs;

Lack of advocates association in the region that will help and facilitate the implementation of pro bono duty;

Lack of sufficient awareness in the community on free legal aid services and basic human rights issues;

Disparity between the growing demand on the part of society and free legal aid provision capacity;

Failure of the free legal aid providers to organize information and documents related to cases handled through free legal aid service;

Lack of diligence on the part of free legal aid service providers- Especially ones who believe that the 50 hours requirement was met, lawyers turn to give less attention irrespective of the status of the case;

Challenges related to evidence of poverty (how and where to get the evidence as well as challenges related to issuing of evidence to undeserving individuals);

Ignorance of evidence of the client by the free legal aid providers

Intimidation of clients to share the results of the litigation;

Challenges related to indirect costs such as copy, stump fee for agency agreement, etc.

Lack of defense lawyers at many of the woreda courts;

Insufficient defense lawyers and lack of supportive staff at high and supreme court levels;[15]

Weak chain of communication among the defense lawyers at high and Supreme Court levels;

Lack of training for the legal aid providers at all levels;

Lack of sufficient attention to the service by the university administration to the free legal aid service as part of community engagement;

Incentives for university professors from the university to provide free legal aid services which limited the opportunity of using professors and students in the scheme;

4.6.2 Participants from the civic society and community leaders

The main problems raised by civic society and community leaders are: lack of sufficient information regarding the existence of free legal aid programs, Lack of trust in free legal aid provision systems, inaccessibility of the free legal aid service in the rural and remotest cities of the region, lack of consistency and sustainability in the provision of the service.

[15] Report of the regional attorney general presented on the FGD, December 4, 2014 EC

4.7. Organizations engaged in the free legal aid service provisions

The assessment made in terms of identifying the stakeholders that are engaged in the provision of free legal aid services indicates that the following organizations and individuals are engaged in the provision of free legal aid services in different ways:-
Regional Bureau of Justice, Regional Courts (from the supreme court to kebele /social/ courts), Advocates who are operating in the region, Women's, Children and Youth Affairs Bureau, EWLA (Ethiopian Women Lawyers Association), Boro-Shinasha Development Association, IRC Assosa field office with a particular interest on GBV, Assosa University, and Ethiopia, Ethiopian Human Rights Commission.

4.8 Summary of the key challenges in the region in terms of provision of free legal aid services

The following key challenges are identified:
Low level of awareness about basic human rights concepts, Lack of adequate information as to the existence FLAS and protection for Vulnerable groups, Lack of comprehensive legal frameworks governing access to justice and free legal aid service, Poor infrastructure in the region , Resource constraints , Low diligence and commitment on giving of the service on the FLAS providers, The non-existence of well-defined uniform incentive mechanism for the instructors who engages in the provision of FLAs in the form of community service, The low salary for legal officers who is employed at FLAC, Teaching and research related work load for professors in the school of Law, Lack of trust on the quality of free legal aid service by the service seekers ,Lack of frameworks for cooperation and coordination among the legal aid providers, Lack of strong professional lawyers association in the region, Weak follow-up and reporting system in the provision of free legal aid service, Low literacy level in the rural areas in particular.

5. Conclusions

Ensuring the prevalence of justice is important for welfare of the society. It is with this conviction that international, regional, and national legal systems unequivocally recognize the right to access justice as one pillar of human rights and human rights systems. Free Legal Aid service is one of the main tools through which we can address and correct the irregularities in the justice system in particular for the indigent and vulnerable members of the society.
The regional legal framework for free legal aid service, though there are many limitations still, could be seen as one of the opportunities in the region in the provision of free legal aid service. The existing legal framework at least recognizes the right to access justice and tries to pave the way for free legal aid services to the indigent and vulnerable members of the community.
In this research, one of the main challenges observed is the lack of awareness among the community. The commitment on the part of institutions directly and indirectly engaged in ensuring the right to access to justice was also found limited and insufficient. Especially, the available government higher education institutions should give due emphasis to the free legal aid service as part of their community service engagements. The underserved infrastructure development was also found an obstacle to legal aid in the region.

6. Recommendations

Ensuring the right to access to justice needs strengthening the mechanisms and tools that are instrumental to ensure access to justice. Ensuring the right to access to justice, as opposed to other civil and political rights, needs positive interventions and resources on the part of the government. Though the primary duty bearer still is the government, cooperation and coordination among the stakeholders is vital to realize access to justice of every citizen.

Based on the findings of this research we recommend the following measures to be taken by all the concerned bodies at the regional level:-

- The regional government, particularly the Attorney General, should introduce strict monitoring mechanisms and frameworks to ensure that the provision of pro-bono service is really given in the required quality for the indigent and vulnerable segment of society.
- The Regional Bureau of justice should facilitate and help the establishment of lawyers associations operating in the region.
- A very strong system of cooperation and coordination or network among the free legal aid providers with in the region is important and needs to be established.
- The regional Advocacy Service Licensing and Administration Proclamation should be amended to expressly include that law school professors and the law school can provide free legal aid services.
- The Regional Advocacy Service Licensing and Administration Proclamation should allow professors of laws to get advocacy licenses in line with the federal government and other regional states' practices.
- Awareness creation campaign for the service seekers, indigent, and vulnerable groups of societies is highly needed.
- The available government higher education institutions should strengthen the effort that is being made by the school of law to provide free legal aid services. Professors need to be provided with sufficient incentives in their initiative to provide FLAS.
- As much as possible, the BGRS government should have to solve infrastructure problems as a priority.
- The regional legal aid system should use paralegals to access more beneficiaries, especially in the remotest and rural parts of the region. Paralegals have proved their significance in improving access to justice in many countries.
- Measures have to be taken jointly by different stakeholders to avoid undue delay and there has to be a mechanism to check the quality of the service.

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Original Article

A Critical Reappraisal of Ethiopia's Approach to National Dialogue: Quest for a Sustainable Peace

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Abstract

Despite the progress Ethiopia has shown in economic growth and democracy in recent years, the country still faces key challenges including political instability, violations of human rights, and weak institutions. Attempts have been made to resolve the problems both by ballot and bullet but none of them brought about the desired sustainable peace, democracy, and prosperity. The Ethiopian government recently promised to conduct a national dialogue in order to lift the country out of the cyclical crises. A successful national dialogue could help a country move forward while an unsuccessful one may only exacerbate the situation. This article seeks to contribute to the national dialogue efforts of Ethiopia by identifying the potential threats and opportunities. The study employs the doctrinal research methodology and uses relevant legal, political, and policy frameworks as primary sources of data. In addition, it makes a thorough literature review as a secondary source based on a comparative approach. The article argues that, while Ethiopia's national dialogue initiative is commendable, a consensus among key stakeholders is swiftly needed on how far, how inclusive, and how substantive the dialogue must be in order for the dialogue to be successful. It reaffirms that, unless the country commits to an inclusive and genuine national dialogue and consensus, the current socioeconomic and political conundrum could exacerbate and have a catastrophic impact on the country and beyond.

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1. Introduction

The concept of national dialogue became widely popular in the last quarter of the 20th century.[1] Since then, scholars have tried to define and elaborate the term. A national dialogue may be defined as a nationally owned political process aimed at generating consensus among a broad range of national stakeholders in times of deep political crisis, in post-war situations, or during political transitions.[2] National dialogues provide an inclusive, broad, and participatory official negotiation framework, which can resolve political crises and lead countries into political transitions.[3] Their objective can involve broad-based change processes such as negotiating a new social contract or more narrow objectives.[4]

The African Union Transitional Justice Policy describes a national dialogue as one of

[1] There are numerous countries that engaged in peace negotiations- some successful, others unsuccessful. These include Aceh (Peace Negotiation 1999–2003), Afghanistan (Negotiations and Political Transition 2001–2005), Benin (Political transition 1990–2011), Burundi (Peace negotiations and implementation 1996–2013), Colombia (Peace Negotiations 1998–2002), Cyprus (Negotiations 1999–2004), Darfur (Peace Negotiations 2009–2013), DR Congo (Inter-Congolese Dialogue 1999–2003), Egypt (Political Transition 2011–2013), El Salvador (Peace Negotiation and Implementation 1990–1994), Eritrea (Constitution Making 1993–1997), Fiji (Political Transition/Constitution making 2006–2013), Georgia-Abkhazia (UN Negotiations 1997–2007), Guatemala (Peace process 1989–1999), Israel-Palestine (Geneva Initiative 2003–2013), Israel-Palestine (Oslo I 1991–1995), Kenya (Post-election violence 2008–2013), Kyrgyzstan (Political reforms 2013), Liberia (Peace Agreement and Implementation 2003–2011), Macedonia (Ohrid FA Peace Process 2001–2013), Mali (Political Transition 1990–1992), Northern Mali (Peace negotiation 1990–1996), Mexico (Chiapas uprising and peace process 1994–1997), Moldova-Transnistria (Negotiations 1992–2005), Nepal (Peace Agreement and Constitution making 2005–2012), Northern Ireland (Good Friday 2001–2013), Papua New Guinea (Bougainville Peace Negotiations 1997–2005), Rwanda (Arusha Peace Accords 1992–1993), Solomon Islands (Townsville Peace Agreement and Constitution Making 2000–2014), Somalia (National Peace Conference 1992–1994), Somalia (National Peace Conference 2001–2005), Somalia (Djibouti process 1999–2001), Somaliland (Post-independence violence negotiations 1991–1994), South Africa (Political Transition 1990–1997), Sri Lanka (Ceasefire, Peace Negotiation and Elections 2000–2004), Tajikistan (Peace negotiations and implementation 1993–2000), Togo (Political transition 1990–2006), Turkey Armenia Protocols 2008–2011), Turkish-Kurdish (Peace Process 2009–2014), Yemen (National Dialogue 2011–2014).

[2] Susan Stigant and Elizabeth Murray, National Dialogues: A Tool for Conflict Transformation?, United States Institute of Peace, October 23, 2015. Available at https://www.usip.org/publications/2015/10/national-dialogues-tool-conflict-transformation; Elizabeth Murray and Susan Stigant, National Dialogues in Peace-building and Transitions, United States Institute of Peace, No. 173, June 2021, at 5. Available at https://www.usip.org/sites/default/files/pw_173-national_dialogues_in_peacebuilding_and_transitions_creativity_and_adaptive_thinking.pdf; Berghof Foundation, National Dialogue Handbook: A Guide for Practitioners, May 2017, at 21. Available at https://peacemaker.un.org/sites/peacemaker.un.org/files/BF-NationalDialogue-Handbook.pdf. All accessed on 10 June 2023.

[3] Thania Paffenholz, Anne Zachariassen and Cindy Helfer, What Makes or Breaks National Dialogues?, Inclusive Peace and Transition, Report, at 9. Available at IPTI-Report-What-Makes-Breaks-National-Dialogues.pdf (un.org); PILPG, A Guide to Planning and Conducting a National Political Dialogue, National Political Dialogue Handbook, at ii. Available at https://static1.squarespace.com/static/5900b58e1b631bffa367167e/t/59f35ccc652deaab953107ec/1509121231824/NATIONAL+POLITICAL+DIALOGUE+Handbook+PDF+%281%29.pdf. All accessed on 5 July 2023.

[4] Huma Haider, National dialogues: lessons learned and success factors, K4D, 12 February 2019, at 2. Available at https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/14379/543_National_Dialogues_Lessons_Learned.pdf?sequence=3&isAllowed=y. Accessed on 21 May 2023.

the transitional justice initiatives used to move from a divided and painful past to a commonly shared and developed future.[5] In the Ethiopian context, national dialogue is defined as a consultation of different bodies facilitated by the Council of Commissions at the Federal and Regional levels on the agendas identified in accordance with this Proclamation and the Directives to be issued by the Council of Commissions.[6] In spite of the varying definitions, national dialogue is regarded as a fundamental instrument for putting the most basic principles of democracy into practice; resolving disputes; building consensus; and strengthening and improving participatory governance and development.[7]

Global experience indicates that not all national dialogues are successful. Though it can broaden debate regarding a country's trajectory, it can also be misused and manipulated by leaders to consolidate their power.[8] It has often been used by national elites as a tool to gain or reclaim political legitimacy, which has limited their potential for transformative change.[9] While there is no blueprint for such dialogues, attention to lessons learned can help actors involved to identify factors contributing to the success and failure of national dialogues and to key challenges.[10]

At the moment, Ethiopia and its inhabitants need sustainable peace, democracy, and development more than ever. The unabated nationwide conflict and atrocities must end at some point as we cannot live in war forever. This is possible only through a genuine political negotiation. Though there is no perfect way of making a political negotiation, it is imperative to make every step of the process through an informed decision. This article aims to contribute to the proposed national dialogue efforts in Ethiopia by identifying the prospects and challenges that may come along the way. In particular, it weighs the current enthusiasm for national dialogues with a critical analysis of the necessary conditions for a successful national dialogue. An attempt is also made to investigate the experiences of other nations so as to disclose the successes and failures in the national dialogue endeavors.

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[5] African Union, Transitional Justice Policy, Adopted February 2019, Ethiopia, Available at 36541-doc-au_tj_policy_eng_web.pdf. Accessed on 6 April 2023. The Policy also recognizes other transitional justice initiatives such as national truth and reconciliation commissions and national reparations funds, amongst others. Transitional justice is a broad concept which consists of both judicial and non-judicial processes and mechanisms, including prosecution initiatives, facilitating initiatives in respect of the right to truth, delivering reparations, institutional reform and national consultations.

[6] The Ethiopian National Dialogue Commission Establishment Proclamation No. 1265 /2021, Fed. Neg. Gazette, No. 5, 13th January, 2022, Art. 2(3).

[7] The World Bank and IDEA, Experiences with National Dialogue in Latin America: Main Lessons from a roundtable discussion, November 20-21, 2000, at 3. Available at http://web.worldbank.org/archive/website01013/WEB/IMAGES/ELSALVAE.PDF. Accessed on 26 March 2023.

[8] Katia Papagianni, National Dialogue Processes in Political Transitions, Civil Society Dialogue Network Discussion Paper No. 3, at 1. Available at https://www.files.ethz.ch/isn/176342/National-Dialogue-Processes-in-Political-Transitions.pdf. Accessed on 3 May 2023. According to the research project Broadening Participation in Political Negotiations and Implementation (2010–2017), while most National Dialogues reached an agreement, only half of these agreements were implemented.

[9] National Dialogues, Inclusive Peace Newsletter, available at National Dialogues – Inclusive Peace. Accessed on 27 February 2023.

[10] Haider, *supra* note 4, at 2.

This article is organized into six sections. The first section presents the definition and context of a national dialogue. Section two depicts the research methodology used in the article. Section three discusses the basic principles of a successful national dialogue. It also describes the experiences of other jurisdictions that have come through a national dialogue. The fourth section highlights a brief history of transitional justice initiatives in Ethiopia and assesses why and how nearly all of them failed. Section five examines the legal, institutional, and political settings of the ongoing Ethiopian national dialogue. The final section draws some conclusions and presents a way forward.

2. Research Methodology

This article employed a doctrinal research methodology. The primary sources of data are domestic and international legal, policy, and political frameworks relevant to the topic. The secondary sources include literature, reports, and the internet. The data are analyzed qualitatively using the content analysis of documents. In addition, the article used a comparative approach to examine the experiences of other jurisdictions. Accordingly, the author purposively selected Tunisia, Senegal, Yemen, Central African Republic, Kenya and Sudan. These countries are favored because each of them has gone through a national dialogue with some elements of successes and failures.

3. Basic Principles of Effective National Dialogue and Experiences of Selected Jurisdictions

In order to succeed, national dialogues pass through three successive phases of preparation, process, and implementation. The preparation phase can be as long, or longer, than the official process, as it often entails mini-negotiation processes in itself to establish key parameters and the institutional framework.[11] In all national dialogues, the decisions made during the preparatory phase set the tone for the process and affect its ultimate legitimacy in the eyes of political forces and the public.[12] In the absence of a one-size-fits-all or 'correct' model,[13] the success of a national dialogue also highly needs to be guided by the principles of, among others, inclusion, transparency, public participation, a clear agenda, a credible facilitator, appropriate and clear rules of procedure, and an implementation plan designed by all stakeholders.[14] In this section, a brief discussion of these principles will be in order. In addition, the author summarizes the experiences of some jurisdictions that came through national dialogues. It presents both the prospects and challenges that are on the way to reaching a national consensus.

[11] *Id*. at 4.

[12] Murray and Stigant, *supra* note 2, at 3.

[13] The Transitional Justice Guiding Principles of the United Nations encourages States to take account of their political context when designing and implementing transitional justice processes and mechanisms. *See* United Nations Approach to Transitional Justice: Guidance Note of the Secretary-General. 2010. Available at Guidance note of the Secretary-General : (un.org). Accessed on 3 July 2023.

[14] Stigant and Murray, *supra* note 2. Elayah *et al*, National dialogues as an interruption of civil war – the case of Yemen, Peacebuilding, 8:1, 98-117, DOI: 10.1080/21647259.2018.1517964, 2002, at 101. Available at https://doi.org/10.1080/21647259.2018.1517964. Accessed on 10 April, 2023.

3.1 Inclusion of Key Stakeholders

Before the process begins, an inclusive, transparent, and consultative preparatory phase sets the foundation for genuine national dialogue. The initial decisions on who is to be included, how, where, and when, are all decisions that can be as intensely political as the dialogue itself.[15] The selection criteria of the participants and procedures can support or hinder the broad representation of different social and political groups and therefore the legitimacy of a negotiation process. It is important that these preparations are undertaken carefully and transparently by a preparatory committee that is inclusive of all major groups.

The principal issue in relation to inclusivity is how, and the extent to which, to include armed opposition parties and groups.[16] It usually requires bringing representatives of belligerent groups together to interact in a safe space.[17] The inclusion of such parties in an enabling environment fosters trust and eventually leads to a reduction of tensions.[18] According to this strategy, if key actors from belligerent groups are given the opportunity to interact, they will better understand one another, be able to work with one another, and prefer to resolve conflicts peacefully.[19] For instance, the 2015 Bangui Forum in the Central African Republic brought to the negotiation table the main opposition armed groups of the Seleka and Anti-Balaka.[20]

Other groups who may participate include those representing wider constituencies such as indigenous or religious leaders, victims of past injustices, civil society, women and youth.[21] It has to be noted that inclusion does not only happen at the negotiation table-different phases and locations also matter.[22] The seven modalities of inclusion are direct representation; observer status;

[15]Inclusive Peace, Broadening Participation in Political Negotiations, available at https://www.inclusivepeace.org/project/broadening-participation/. Accessed on 5 June 2023; Stigant and Murray, *supra* note 2.

[16] Princeton N. Lyman and Jon Temin, Pathway to National Dialogue in Sudan, Peace Brief155, United States Institute of Peace, 13 August 2013.

[17] Elayah *et al*, *supra* note 14, at 102.

[18] *Id*.

[19] Collén Charlotta, National Dialogue and Internal Mediation Processes: Perspectives on Theory and Practice. (Finland: Minister for Foreign Affairs, 2014); Also *see* Ahmed Al-Harbi. Yemen: the past that refuses to go around and the future hindered his coming. (Sana'a: Ebadi Center for Studies and Publications, First Edition, 2013).

[20] Amy Copley and Amadou Sy, Five takeaways from the Bangui Forum for National Reconciliation in the Central African Republic, Brookings, 15 May, 2015, available at Five takeaways from the Bangui Forum for National Reconciliation in the Central African Republic | Brookings. Accessed on 12 July 2023. Following the Bangui Forum, ten factions of the Seleka and Anti-Balaka militias signed a Disarmament, Demobilization and Reintegration (DDR) agreement, which required all warring groups to lay down their arms by the time of national elections. However, the implementation of the forum was not successful because the funding shortages and weakness of army leaders to control their combatants.

[21] Inclusive Peace and Transition Initiative (IPTI), What Makes or Breaks National Dialogues?, at 2.Available-at: https://peacemaker.un.org/sites/peacemaker.un.org/files/IPTI-Briefing-Note-National-Dialogues.pdf. Accessed on 11 May 2023. Also *see* Stigant and Murray, *supra* note 2. By including women and youth alongside traditional leaders and political elite, the Yemen's National Dialogue represented a significant departure from typical Yemeni political processes. The inclusion of non-traditional elites allowed for a more representative conversation and also may have contributed to opening the political space for future participation of women, civil society, and youth. *See* Erica Gaston, Process Lessons Learned in Yemen's National Dialogue, Special Report no. 342 (Washington, DC: United States Institute of Peace, 2014).

[22] *Id*.

consultations; inclusive commissions; high-level problem-solving workshops; public decision-making; and mass action.[23] However, for inclusion to bring the desired result there has to be a high level of political will on the part of all stakeholders.[24] It is only when included actors are able to influence the preparation, process and implementation phases that the dialogue serves its purposes.[25] In this regard, the 2013-14 the Yemen National Dialogue that brokered President Ali Abdullah Saleh's removal from power was noteworthy for its inclusion of a broad set of stakeholder groups. On the other hand, while Tunisia's national dialogue is generally heralded as a success, it is important to note that it was not inclusive of all stakeholder groups and did not provide opportunities for public participation. This may have compromised the public legitimacy of the dialogue as some Tunisian citizens regard the dialogue as merely an exercise in political positioning.[26]

3.2 Choice of Credible Conveners

National Dialogues are expected to be facilitated by a neutral and credible party to avoid perceptions of bias.[27] Typical facilitators are persons with a high degree of political legitimacy within the country or beyond and who have no political aspirations or goals that would present an obvious conflict of interest. Subject to their agreements and specific contexts, countries that have experienced various forms of transitional justice initiatives have used international or national facilitators or both. A convener may take the form of an organization or a coalition of organizations, a single person or a group of people. Some international and regional organizations have acquired significant experience in developing the rule of law and pursuing transitional justice in States emerging from conflict or repressive rule.[28] For instance, an international consortium of the United Nations (UN), the European Union, China and Russia helped the organization of Yemen's national dialogue in 2013.[29] However, even before the dialogue was officially concluded in 2014, the Houthi movement allied with former President Saleh to control the majority of the country's provinces.

In other cases, using civil society organizations in peace processes is also preferred because they may have the requisite independence to promote the peace dialogue and expose non-compliance by the parties.[30] The 2013-14 national dialogue of Tunisia was convened by the National Dialogue

[23] *Id*.
[24] Haider, *supra* note 4.
[25] Thania Paffenholz, Can Inclusive Peace Processes Work? New Evidence From a Multi-Year Research Project, Ploicy Brief, April 2015, available at https://www.inclusivepeace.org/wp-content/uploads/2021/05/briefing-note-can-inclusive-processes-work-en.pdf. Accessed on 25 June 2023.
[26] Hatem M'rad in collaboration with M. Ben Salem, K. Merji, B. Ennouri, M. Zgarni, and M. Charfeddine, *National Dialogue in Tunisia* (Tunis: Tunisian Association of Political Studies [ATEP], 2015).
[27] Inclusive Peace and Transition Initiative (IPTI), *supra* note 21.
[28] United Nations Approach to Transitional Justice, *supra* note 13.
[29] Elayah *et al*, *supra* note 14, at 100.
[30] Margaux Pinaud, Home-Grown Peace: Civil Society Roles in Ceasefire Monitoring, International Peacekeeping, 1-26, available at Home-Grown Peace: Civil Society Roles in Ceasefire Monitoring — Research Explorer The University of Manchester. Accessed on 9 February 2023.

Quartet made up of four civil society organizations.[31] With long-standing moral authority and broad constituent bases, this coalition of organizations was seen as credible by a significant proportion of the Tunisian population. In addition, the country had a culture of keeping the military out of politics and party affiliation.

Likewise, the 2008 Kenya National Dialogue was praised for being organized by the African Union Panel of Eminent African Personalities, led by former UN secretary-general Kofi Annan. Likewise, the former United Nations Educational, Scientific and Cultural Organization (UNESCO) Director General and respected Senegalese citizen Amadou-Mahtar M'Bow chaired the 2008-2009 Senegal National Dialogue.

3.3 Transparency and Public Participation

National dialogues win public acceptance and legitimacy if there are sufficient opportunities for the public to remain informed about and participate in the dialogues.[32] Public support or lack thereof can enable or constrain progress in the national dialogue process.[33] For instance, during the 2008-2009 Senegal's National Dialogue, various teams conducted consultations in each of the country's districts and also engaged the diaspora in France, the United States, and Canada. Delegates can also be mandated to hold consultations with the groups that they represent, as was the case during Kenya's 2004 Bomas conference on constitutional reform. On the contrary, the Sudan National Dialogue (2014-16) offered a non-participatory forum as President Omar al-Bashir's government and affiliates controlled the preparations and overall processes.[34] In particular, the rebel coalition of the Sudan Revolutionary Front showed little interest in the talks, especially when they were asked to lay down their arms as a precondition to joining.[35]

3.4 Selecting Proper Agenda

Through a national dialogue, the stakeholders are expected to resolve key problems their country has been facing. This is addressed by selecting a proper agenda for dialogue. Such agendas are identified by the stakeholders during the preparation phases. At this stage, the stakeholders need to make sure that conflict-fueling themes such as national identity, political rights, basic freedoms, institutional reform, election procedures, and the structure of government are not left out. Nevertheless, it has to be underlined that setting the right agenda is not a panacea in itself. For instance, although Yemen's national dialogue had a far-reaching agenda, it failed to produce agreement on the highly

[31] Hamadi Redissi , What Role for Tunisia's National Dialogue under the Interim Unity Government?, Arab Reform Initiative, Policy Alternatives, July 2014. The four civil society organizations were the Tunisian General Labor Union (UGTT- Union Générale Tunisienne du Travail), the Employers Union (UTICA- Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat), the Tunisian Bar Association, and the Tunisian League for Human Rights (LTDH- Ligue Tunisienne **pour la défense des droits de l'Homme**), served as the convening entities.

[32] Stigant and Murray *supra* note 2.

[33] Haider, *supra* note 4.

[34] James Copnall, Sudan: is the National Dialogue really dead? (And did it ever really exist anyway?), African Arguments, 25 June 2014, available at Sudan: is the National Dialogue really dead? (And did it ever really exist anyway?) - By James Copnall | African Arguments. Accessed on 12 July, 2023.

[35] *Id*.

contentious issue of federalism.[36] In addition, as a national dialogue is not expected to solve all the problems of a country, the parties need to be as realistic as possible.[37]

3.5 Clear mandate and structure

National dialogues are unlikely to have a positive impact if they seem illegitimate or commenced without clear mandates.[38] Hence, they need to have a clear mandate which lends purpose and authority under their enabling laws. For example, the clear mandate of Tunisia's national dialogue allowed delegates to make steady progress toward four goals: selecting a caretaker government, approving a new constitution, establishing an electoral management body, and setting a timetable for elections. On the other hand, the 2015 Bangui Forum in the Central African Republic was hastily organized and its legal mandate was unclear.[39] In addition, national dialogues are usually convened because the incumbent government and existing institutions are unable to resolve the major problems of the country either because they are neither legitimate nor credible, or because they are unwilling to challenge the status quo.[40] This requires national dialogues to take place outside of the existing government institutions. A national dialogue will also need to have its own decision-making rules and procedures.

3.6 Proper Implementation Mechanisms

A national dialogue convened in compliance with all basic principles will still become futile if not followed by proper implementation mechanisms. The stakeholders should agree upon the implementation mechanisms of the resultant recommendations. The implementations may be made through a new constitution, law, policy, or other programs. For instance, Tunisia's National Dialogue resulted in the establishment of a caretaker government, ratification of the constitution, the election of an Electoral Commission, and facilitation of elections.[41]

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[36] Continuing disagreement over the financial and political mechanisms for federalism is a principal grievance fueling the current civil conflict in Yemen that erupted less than fifteen months after the dialogue's conclusion.

[37] Katia Papagianni, National Dialogues and the Resolution of Violent Conflicts, Cambridge University Press, 14 January 2021, available at National Dialogues and the Resolution of Violent Conflicts (Chapter 14) - International Law and Peace Settlements (cambridge.org). Accessed on 23 May 2023.

[38] Esther Kestemont, What Role(s) for the European Union in National Dialogues? Lessons Learned from Yemen, EU Diplomacy Paper, 05/2018, at 4. Available at http://aei.pitt.edu/97354/1/edp-5-2018_kestemont.pdf. Accessed on 8 May 2023.

[39] Copley and Sy, *supra* note 20.

[40] Tunisia's National Dialogue was established in October 2013 because Hamadi Jebali's government faced a lack of trust and vision, political instability, weak performance, and the deterioration of the security situation across the country. *See* Redissi, *supra* note 31, at 2.

[41] *Id*. Unfortunately, the reforms introduced by the Tunisia's national dialogue did not last long and the country turned into another round of socio-economic and political crises. The ambitions for rule of law, accountability, economic prosperity and human dignity remained unrealized. In 2021 President Kais Saied, who came to power in 2019, suspended the parliament and dismissed the government and ruled by emergency decrees until he was able to institute a new constitution consolidating his powers. In 2022, the Tunisian President announced the launch of a new national dialogue using the same institutions that facilitated the 2013-14 dialogue of the country. However, the President vowed to exclude opposition groups. *See* News Wires, Tunisia announces 'national dialogue,' excluding opposition groups, available at Tunisia announces 'national dialogue', excluding opposition groups (france24.com). Also *see* United

Implementation requires political will, sufficient funds, and accountability mechanisms so that key actors may feel bound by what has been agreed.[42] Furthermore, the aforementioned Tunisia's experience tells us that, a national dialogue, even where made in compliance with the basic principles, may not bring sustainable peace unless backed by genuine institutions that are able to function irrespective of who comes to the throne.

4. A Brief History of Transitional Justice in Ethiopia

The violence and instability in Ethiopia have their roots in long-standing state-building deficits.[43] These primarily include divergent interpretations of the country's political history, a lack of social cohesion, and an absence of national consensus on major state symbols and institutions.[44] According to the 2021 Global Peace Index, Ethiopia is ranked 37th in Africa and 139th globally in terms of peacefulness, which is the third largest fall regionally.[45] The 2023 report of the Internal Displacement Monitoring Centre indicates that about 3.8 million people were displaced in Ethiopia, which is the second-highest number of internally displaced persons in Africa after the Democratic Republic of Congo.[46] The report confirms that conflict is the main driver of displacement in the country.[47]

Likewise, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that, in Western Oromia alone, over 800,000 people have been displaced, tens of thousands of children out of school because schools are either damaged or closed and high mortality and morbidity rates were registered due to damaged health facilities and poor health services due to conflict.[48] In Tigray, since November 3, 2020, more than half a million people had died as a result of war and famine and millions had been displaced.[49] Likewise, in Amhara region, as of June 2023, more than half a million people were displaced as a result of the war between the Ethiopian military and the Amhara

States Institute of Peace, The Current Situation in Tunisia, A USIP Fact Sheet, December 14, 2022, available at The Current Situation in Tunisia | United States Institute of Peace (usip.org); Peter Beaumont, why is Tunisia in crisis and why do sub-Saharan people want to leave?, The Guardian, March 30, 2023, available at Why is Tunisia in crisis and why do sub-Saharan people want to leave? | Tunisia | The Guardian. All accessed on 3 February 2023.

[42] For instance, the national dialogue of Sudan resulted in 994 recommendations but none of them were implemented by the government.

[43] Meressa K Dessu and Dawit Yohannes, Ethiopia can learn from its neighbors about national dialogue, Institute for Security Studies, 07 September 2020, available at Ethiopia can learn from its neighbors about national dialogue - ISS Africa. Accessed on 12 July 2023.

[44] *Id*.

[45] Institute for Economics & Peace, Global Peace Index 2021: Measuring Peace in a Complex World, Sydney, June 2021. Available at: http://visionofhumanity.org/reports. (Accessed on 25 June 2023). The Global Peace Index (GPI) is the world's leading measure of global peacefulness and it ranks 163 independent states and territories according to their level of peacefulness.

[46] IDMC, GRID 2023, Internal Displacement and Food Security, available at IDMC_GRID_2023_Global_Report_on_Internal_Displacement_LR.pdf (internal-displacement.org). Accessed on 1 July 2023.

[47] *Id*.

[48] OCHA, Ethiopia- Situation Report, 29 May 2023. Available at Ethiopia - Situation Report, 29 May 2023 - Ethiopia | ReliefWeb. Accessed on 24 June 2023.

[49] David Pilling and Andres Schipani, War in Tigray may have killed 600,000 people, peace mediator says, Financial Times, 15 January 2023. Available at War in Tigray may have killed 600,000 people, peace mediator says | Financial Times (ft.com). Accessed on 23 Sept. 2023.

extremists known as Fanno.[50] On 4 August 2023, the Ethiopian government declared a six-month state of emergency with nation-wide application, following increased violence in the Amhara region.[51] The state of emergency, approved by Ethiopia's House of People's Representatives on 14 August 2023, gives the government sweeping powers to arrest suspects without a court warrant, impose curfews, prevent freedom of movement, and ban public assemblies or associations.[52]

In Benishangul Gumuz Regional State, close to half a million people, i.e. about half the region's population have been displaced.[53] Geographically, all three zones of the region and 17 out of 23 districts (comprising 71% of the region's districts), have been affected by conflict and displacement.[54] In Konso Zone of the newly formed Southern Ethiopia Region, where three out of four districts have been affected by displacement, a third of its population has been displaced in the past two years.[55] In Gambella region, age-old political fault lines over identity, resources and language continue fueling deadly flare-ups clashes.[56] For instance, on July 18, 2023 left at least 24 people dead and dozens injured, while properties were destroyed and thousands were forced to flee their homes.[57] According to the Ethiopian Human Rights Commission, conflicts and attacks in the country require immediate response from all stakeholders.[58] All these problems necessitated mediating a peaceful and constructive exit out of the crises.

Despite its experience in socio-political transitions in its modern history, Ethiopia has neither designed nor implemented comprehensive and integrated transitional justice mechanisms to systematically deal with the past and craft a better future.[59] However, the country had some missed

[50] OCHA, Ethiopia- Situation Report, 27 Jul 2023. Available at Ethiopia - Situation Report, 27 Jul 2023 | OCHA (unocha.org). Accessed on 23 Sept. 2023.

[51] Amnesty International, Ethiopia: Authorities must grant independent investigators, media unfettered access to Amhara region to probe violations under state of emergency, August 18, 2023. Available at Ethiopia: Authorities must grant independent investigators, media unfettered access to Amhara region to probe violations under state of emergency. - Amnesty International. Accessed on 23 Sept. 2023.

[52] *Id*.

[53] Fekadu Adugna and Ketema Debale, Conflict and displacement in Ethiopia: the case of Benishangul Gumuz Regional State and Konso Zone, Southern Nations, Nationalities and Peoples Region, January 2023. Available at conflict-and-displacement-in-ethiopia-1.pdf (soas.ac.uk). Accessed on 23 Sept. 2023.

[54] *Id*.

[55] *Id*.

[56] Abraham Tekle, A land torn apart: Gambella's struggle against ethnic violence and neglect, The Reporter, July 29, 2023. Available at A Land Torn Apart: Gambella's Struggle Against Ethnic Violence And Neglect | The Reporter | Latest Ethiopian News Today (thereporterethiopia.com). Accessed on Sept. 23, 2023.

[57] *Id*.

[58] Ethiopian Human Rights Commission, Annual Human Rights Situation Report Executive Summary, From June 2022 to June 2023, Submitted to the House of Peoples' Representatives, at 3. Available at Executive Summary: Ethiopia Annual Human Rights Situation Report (June 2022 – June 2023) - Ethiopian Human Rights Commission - EHRC. Accessed on 12 July 2023. In particular, according to the report, the gross violations of rights and freedoms in all Wallaga Zones, in all Shawa Zones, Ilu Aba Bora, Buno Beddele, Arsi and neighboring areas and various districts in the two Guji zones as well as in Alge, Hurumu, Kiremu, Gida Ayana, Amuru, Horo Buluq, Jardega Jarte, Bosset, Gindaberet, Chobi, Dera, Kuyu, Merti Jeju are extremely concerning and require urgent attention.

[59] Ethiopia: Policy Options for Transitional Justice, Draft Stakeholder Consultations, January 2023, at 4.

opportunities. A significant attempt to make a transition to peace and democracy in Ethiopian history was made after the downfall of the communist Mengistu Hailemariam, who ruled the country from 1974 to 1991.[60] After the joint forces from different corners of the country toppled the Derg, leading armed opposition groups, the Ethiopian People's Revolutionary Front (EPRDF), and others agreed that an inclusive transitional process would be launched at the beginning of July 1991.[61] The process would be led by a broad-based provisional government and the EPRDF would form an interim government until the transitional government was in place.[62]

Political organizations and elites then met to discuss a transitional charter, which recognized the right of the Eritrean people to determine their political future through an internationally supervised referendum to be held in two years.[63] It also recognized the Universal Declaration of Human Rights, and called for the creation of a constitution drafting commission. A further agreement was reached on sharing executive powers.[64] Thereby the interim government of the EPRDF formally ended and the Transitional Government of Ethiopia was inaugurated.[65] It seemed that the EPRDF did not want to see any military group that might jeopardize its rule in any way. Later on, the Oromo Liberation Front (OLF) was pushed out of the transition and the EPRDF controlled the power. Then, in order to neutralize the Oromo nationalism and national question, the Oromo Peoples Democratic Organization (OPDO), made up of war prisoners, was organized and joined the EPRDF.[66] Apart from political negotiations, the EPRDF initiated the Red Terror Trials to bring former officials of the Derg before the courts.[67] Nevertheless, the then transition did not address key socio-economic and political questions of the time as a result of which the countries nations and nationalities continued to suffer from the supremacy of a single party.

The post-2018 promised reform brought another forgone opportunity to Ethiopia. In his inaugural speech of April 2018, Prime Minister Abiy Ahmed publicly apologized for past human rights violations.[68] Apart from

[60] It has to be acknowledged here that, though limited in scope, the Derg had enacted Proclamations for granting amnesty to persons who committed homicide. For instance, Article 2 of Amnesty for the Outlaws of Homicide Proclamation No. 29/1975 states that "every Ethiopian who has committed homicide, robbery or other offences before February 4, 1975 and is hiding in the villages, bushes or towns to avoid the application of the law against him is here by granted amnesty for all criminal charges that might have been instituted against him by the state."

[61] Mulugeta Gebrehiwot Berhe, Transition from war to peace: The Ethiopian DDR experience, Summary Paper from the Program on African Peace Missions, No. 16, 2016, available at 16.-Transitions-from-War-to-Peace-DDR.pdf (tufts.edu). Accessed on 1 June 2023.

[62] *Id*.

[63] *Id*.

[64] *Id*.

[65] *Id*.

[66] Alem Kebede, Ethiopia: The Role of the Military in the Political Order, Politics, 19 November 2020, available at https://doi.org/10.1093/acrefore/9780190228637.013.1816. Accessed on 22 May 2023.

[67] Solomon Ayele Dersso, Ethiopia's Experiment in Reconciliation, Monday, September 23, 2019, Available at Ethiopia's Experiment in Reconciliation | United States Institute of Peace (usip.org). Accessed on 11 February 2023.

[68] Ethiopia: Lack of accountability for past violations haunts the present, Amnesty International, Press Release, May 28, 2019. Available at Ethiopia: Lack of accountability for past violations haunts the present - Amnesty International. Accessed on 25 January 2023.

the official apology, the government signed a peace agreement with the Oromo Liberation Front for the termination of hostilities, for the OLF[69] to conduct its political activities in Ethiopia through peaceful means, and for the establishment of a joint committee to implement the agreement.[70] The agreement, the contents of which were not much known to the public, has not been put to implication and could not stop the warring groups.

The government then established the Truth and Reconciliation Commission by Proclamation No. 1102/2018.[71] The main objective of the Commission is to maintain peace, justice, national unity and consensus and reconciliation among Ethiopian Peoples.[72] Pursuant to Article 2(3) of the Proclamation, reconciliation constitutes establishing values of forgiveness for the past, lasting love, solidarity and mutual understanding by identifying reasons for conflict, the animosity that is occurred due to conflicts, misapprehension, developed disagreement and revenge. The Commission's accountability was made to the Prime Minister and the term of the Commission is three years, which has expired.[73]

Another measure taken by the government was the enactment of the Administrative Boundary and Identity Issues Commission Establishment Proclamation No. 1101/2019.[74] The Commission was established to submit recommendations to the Public, the House of Federation, the House of People's Representatives and the Executive Organ through analysis of causes and conflicts that arise in relation to administrative boundaries, self-government and identity issues in participatory, explicit, inclusive and scientific manner.[75] The Commission, accountable to the country's Prime Minister,[76] was established for the term of three years.[77] Upon the expiry of the fixed term, the Commission has become non-existent for the purpose of the law as its term

[69] The OLF is a political party established in 1973 to struggle for the right to self-determination of the Oromo people. The Party believes that the root cause of political problems in Ethiopia is national oppression by the Ethiopian government and refusal by the state to respect the rights of oppressed peoples to self-determination. *See* Oromo Liberation Front, OLF Policies on Peaceful Resolution of Conflicts in Ethiopia, available at **OLF Policies – Oromo Liberation front**. Other authors believe that ethnicity and the right to self-determination recognized under the FDRE Constitution are the main source of conflicts in the country. For instance, *see* Omni Consult, Conflict Mapping and Context Analysis for Peace Building Program in Ethiopia, November 2020, Addis Ababa, at 3. Available at **conflict-maping-and-context-analysis-2020.pdf (kirkensnodhjelp.no)**. All accessed on 21 June 2023.

[70] The peace agreement was signed by the president of the OLF, Dawud Ibsa, and the then president of the Oromia Regional State and the deputy chairman of the former OPDO, Lemma Megersa on Tuesday, August 7, 2018, in Asmara, the capital city of Eritrea. *See* Neamin Ashenafi, GoE, OLF sign peace agreement in Asmara, The Reporter, August 11, 2018, available at GoE, OLF Sign Peace Agreement In Asmara | The Reporter | Latest Ethiopian News Today (thereporterethiopia.com). Accessed on 1 June 2023.

[71] Reconciliation Commission Establishment Proclamation No.1102 /2018, 25th Year No. 27, 5th February 2019, Addis Ababa.

[72] *Id*. Art. 5.

[73] *Id*. 14(1).

[74] Administrative Boundary and Identity Issues Commission Establishment Proclamation No. 1101 /2019, 25th Year No. 29, 8th February 2019, Addis Ababa.

[75] *Id*. Art. 4.

[76] *Id*. Art. 3(3).

[77] *Id*. Art. 15(1).

has not been extended by the House of Representatives.

The establishment of the Administrative Boundary and Identity Issues Commission was not trusted to address what it was meant for. This is due to various reasons. On the one hand, like the Truth and Reconciliation Commission, there was no public participation in the development of the commission's enabling laws, nor in the nomination and appointment of the commission's members.[78] Both Commissions are tailored by the government. On the other hand, the Administrative Boundary and Identity Issues Commission seems overtaking the powers and responsibilities of regional States and the federal House of Federation.[79] Under the Federal Democratic Republic of Ethiopia (FDRE) Constitution, all State border disputes shall be settled by agreement of the concerned States and, where the concerned States fail to reach an agreement, the House of the Federation shall decide such disputes on the basis of settlement patterns and the wishes of the peoples concerned.[80] The Constitution further provides that the House of Federation shall decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination, including the right to secession.[81] Accordingly, the establishment of the Commission is a redundancy of institutions contrary to the spirit of the Constitution.

Furthermore, the government enacted Amnesty Proclamation No. 1096/2018 which grants amnesty to persons convicted of a number of political crimes including those found guilty of committing crimes punishable under the anti-terrorism proclamation and crimes punishable under various provisions of the Criminal code of Ethiopia.[82] The Proclamation was followed by the Amnesty Proclamation to provide for the Procedure of Granting and Implementing Amnesty No. 1089/2018 which was promulgated to remedy the gaps in the provision of amnesty and to address procedural issues in granting amnesty.[83] The Proclamation seeks to create conducive conditions for granting amnesty to ensure peace and security as well as to protect the political, social and economic development of the public.[84] Nevertheless, the Proclamations did not establish a standardized pardoning system.

Recently, the *Agreement for Lasting Peace through a Permanent Cessation of Hostilities* brokered by the African Union and mediated by former Nigerian President

[78] Solomon, *supra* note 67.

[79] However, some authors argue that the establishment of the Administrative Boundary and Identity Issues Commission is constitutional. For instance, *see* Tegegn Zergaw, The Constitutionality of the Administrative Border and Identity Commission, Bahir Dar University Journal of Law, Vol. 8, No. 1 (December 2017), at 87-90 (written in Amharic). Also available at View of The Constitutionality of the Administrative Border and Identity Commission (ethernet.edu.et). Accessed on 24 May 2023.

[80] The Constitution of the Federal Democratic Republic of Ethiopia, FDRE Constitution, Proclamation No 1/1995, Fed. Negarit Gazette, 1st Year No.1, 1995, Art. 48(1). (Herein after FDRE Constitution)

[81] *Id*. Art. 62(3).

[82] Amnesty Proclamation No. 1096/2018, 20th of June 2018, The Proclamation is available at pardon-proclamation-1.pdf (ethiopianlawgroup.com). Accessed on 2 July 2023.

[83] Procedure of Granting and Implementing Amnesty Proclamation No. 1089/2018, 24th Year No.52, 16th August, 2018, Addis Ababa.

[84] *Id*. Preamble.

Olusegun Obasanjo was signed on November 2, 2022, towards ending the war and hostilities between the Ethiopian government and the Tigray People's Liberation Front (TPLF).[85] According to this agreement, both parties to the conflict which has left thousands dead and displaced millions in the northern region of Tigray agreed to orderly, smooth and coordinated disarmament and restoration of law and order.[86] Consequently, an interim administration has been set up in Tigray, telecommunication services and transport links have resumed there and the regional forces have surrendered most of their arms as outlined in the peace accord.[87] Though these can be considered positive steps towards the implementation of the peace deal, at the same time, both sides have been accusing each other of not honoring some obligations. According to the United Nations experts, war crimes and crimes against humanity are still being committed in Tigray nearly a year after the peace deal.[88]

In the same instrument, the Ethiopian government promised to implement a comprehensive national transitional justice policy aimed at accountability, ascertaining the truth, redress for victims, reconciliation, and healing, consistent with the FDRE Constitution and the African Union Transitional Justice Policy Framework.[89] It further states that "the transitional justice policy shall be developed with inputs from all stakeholders, and civil society groups through public consultations and formal national policy-making processes.[90] The establishment of a Working Group of Independent Experts on Transitional Justice by the Ministry of Justice and the subsequent preparation of a 'Green Paper' on transitional justice policy options based on which a nationwide public consultation was launched is also another significant and encouraging progress.[91]

In spite of the positive steps taken so far, no proper attention has been given to ending the

[85] UN News, Ethiopia: Peace agreement between Government and Tigray 'a critical first step': Guterres, 2 November 2022, available at **Ethiopia: Peace agreement between Government and Tigray 'a critical first step': Guterres | UN News**. Accessed on 19 January 2023.

[86] Aljazeera, Five key takeaways from the Ethiopia peace deal, 4 November 2022, available at **Five key takeaways from the Ethiopia peace deal | Conflict News | Al Jazeera**. Accessed on 8 May 2023. The full transcript of the peace agreement between the Ethiopian government and TPLF signed in South Africa is available at **Full transcript of peace agreement between the Ethiopian govt and TPLF signed in South Africa (gambellastarnews.com)**. Accessed on 26 June 2023.

[87] Aljazeera, Fate of jailed fighters still unknown months after Ethiopia truce, 13 June 2023. Available at Fate of jailed fighters still unknown months after Ethiopia truce | Human Rights | Al Jazeera. Accessed on 13 July 2023.

[88] Aljazeera, Crimes against humanity continue in Ethiopia despite truce, say UN experts, 19 Sep 2023, available at Crimes against humanity continue in Ethiopia despite truce, say UN experts | Crimes Against Humanity News | Al Jazeera. Accessed on 23 Sep. 2023.

[89] Agreement for Lasting Peace and Cessation of Hostilities (the Peace Agreement) signed by the Government of the Federal Democratic Republic of Ethiopia and the Tigray Peoples' Liberation Front on 2 November 2022, Article 10(3).

[90] *Id*. For a report on consultation of this type, *see* EHRC/OHCHR's Joint Advisory Note and Key Findings stemming from Community Consultations on Transitional Justice to inform the development of a Transitional Justice Policy Framework for Ethiopia, 15 December 2022, Addis Ababa, available at Advisory-Note-TJ-by-EHRC-OHCHR.pdf (un.org). Accessed on 3 March 2023.

[91] Ethiopian Human Rights Commission, *supra* note 49, at 2. Available at Executive Summary: Ethiopia Annual Human Rights Situation Report (June

war between the Ethiopian government and the Oromo Liberation Army (OLA), the freedom fighters that have been operating in Oromia, the largest region in Ethiopia's federation, for the last fifty years. According to Prime Minister Abiy Ahmed, the violence has caused immense suffering for the public in all parts of Oromia over the last five years.[92] The Prime Minister told the House of Representatives on 28 March, 2023 that a committee has been formed to negotiate with the OLA.[93] Likewise, the OLA agreed to the planned talks with the government.[94] Mediated by the Intergovernmental Authority for Development (IGAD), the first round of peace talks between the Ethiopian government and the OLA took place in Tanzania between April 24 and May 2, 2023. However, it was not possible to reach an agreement on key issues during this first round of the talks.[95] Both sides subsequently released similar statements describing the unfortunate situation and vowed to continue to resolve the conflict permanently and peacefully.[96] It seems that both parties did not overcome the usual impediment to pact-making, i.e. the tendency of negotiating forces to resist making any concessions because they fear that their rivals will not reciprocate or will break it.[97] This was also clear from the successive unilateral statements made by both sides. Apart from this, there have been no comprehensive peace agreements in order to address the conflicts in different parts of the country.

In sum, while it is true that various initiatives have been put in place to implement certain components of transitional justice, the processes have only brought about limited results.[98] The efforts, including those that were implemented since the promised reforms in 2018, are neither complete, adequate, effective, nor comprehensive.[99] Another good step towards resolving Ethiopia's political problems and ending the ongoing conflicts in the country, which is the main concern of this article, is the national dialogue process initiated by the government.

2022 – June 2023) - Ethiopian Human Rights Commission - EHRC. Accessed on 12 July 2023.

[92] Ermias Tasfaye, Ethiopian government and the Oromo Liberation Army edge towards talks, Ethiopia Insight, 29 March, 2023. Available at Ethiopian government and the Oromo Liberation Army edge towards talks - Ethiopia Insight (ethiopia-insight.com). Accessed on 15 May 2023.

[93] *Id*.

[94] Ethiopia: Oromo Liberation Army agrees to start dialogue with government, TRTAFRiKA, 24 April, 2023. Available at Ethiopia: Oromo Liberation Army agrees to start dialogue with government - TRT Afrika. Accessed on 11 June 2023.

[95] Giulia Paravicini, First round of peace talks between Ethiopia and Oromo rebels ends without deal, Reuters, May 3, 2023. Available at First round of peace talks between Ethiopia and Oromo rebels ends without deal | Reuters. Accessed on 5 June 2023.

[96] Alemayehu B. Hordofa, Why it's crucial for internally diasplaced persons to participate in the peace process following Ethiopia's Oromia Conflict, Humanitarian Observatory Series, July 4, 2023, available at Humanitarian Observatories Series | Why it's crucial for internally displaced persons to participate in the peace process following Ethiopia's Oromia Conflict - Bliss (issblog.nl). Accessed on 8 July, 2023.

[97] Daniel Brumberg, Could Tunisia's National Dialogue model ever be replicated?, The Washington Post, October 12, 2015, available at **Could Tunisia's National Dialogue model ever be replicated? - The Washington Post**.

[98] Ethiopia: Policy Options for Transitional Justice, *supra* note 50, at 7.

[99] *Id*.

4.1 Examining Ethiopia's National Dialogue Efforts

The FDRE Constitution represents the aspirations of Ethiopian nationals to fully and freely exercise their right to self-determination, to build a political community founded on the rule of law and capable of ensuring a lasting peace, guaranteeing a democratic order, and advancing their economic and social development.[100] It further recognizes the rights of Ethiopians to be consulted on major national issues and participate in decision-making at various levels.[101] In spite of this, numerous social and political conflicts and a history of human rights violations remain causes of polarization and violence in Ethiopia.[102] It has been a long since various concerned stakeholders and researchers recommended an inclusive and genuine national dialogue as a way out of Ethiopia's socio-economic and political crisis.

Instead of resolving disputes at a negotiation table, successive Ethiopian governments tried to manage the conflicts through different mechanisms which proved ineffective thereby exacerbating the country's situation. It was on December 29, 2021, that the government exhibited a political will to hold a national dialogue with the enactment of the National Dialogue Commission Establishment Proclamation No. 1265/2021. In fact, the government, opposition groups, or Civil Society Organizations may initiate a national dialogue process. However, the initiation made by the government without much participation by key opposition and armed groups is proved to be a weakness in such countries as Sudan and South Sudan (2017-20).[103] In those countries, it undermined the dialogues' credibility in the preparation phase and later it hampered the implementation of recommendations.[104]

The Ethiopian National Dialogue Commission Establishment Proclamation is organized into thirty-three articles and it governs the establishment of the Dialogue Commission, the appointment of Commissioners, the powers and responsibilities of Commissioners, and the principles of the national dialogue. The Ethiopian national dialogue is planned to be conducted at a time when there are active wars and violence in different parts of the country. In particular, the war between the government and the OLA remains unabated in various places in Oromia. The key challenge to the promised dialogue is how to conduct a genuine political dialogue pending active wars. In fact, the National Dialogue Commission Establishment Proclamation recognized the existence of differences of opinions and disagreements among various political and opinion leaders and also segments of society in Ethiopia on the most

[100] FDRE Constitution, *supra* note 80, preamble.

[101] Article 35(6) of the Constitution states that women have the right to full consultation in the formulation of national development policies, the designing and execution of projects, and particularly in the case of projects affecting the interests of women. Article 43(2) provides that Nationals have the right to participate in national development and, in particular, to be consulted with respect to policies and projects affecting their community. Likewise, Article 92(3) enshrines that people have the right to full consultation and to the expression of views in the planning and implementation of environmental policies and projects that affect them directly.

[102] Solomon, *supra* note 67.

[103] Meressa and Dawit, *supra* note 43.

[104] *Id*.

fundamental national issues and that it is a necessity to resolve the differences and disagreements through broad-based inclusive public dialogue that engenders national consensus.[105] Nevertheless, the Commission is not mandated to stop the war under its enabling law makes no mention of this effect.[106] The Commission has also no mandate to negotiate, reconcile, or set an agenda for a ceasefire among the warring parties as it is implied in the law.[107]

The Proclamation seems not to have allotted adequate room for indigenous peace-building approaches.[108] A move towards resolving the conflicts in Ethiopia should have started with an inward-looking to the rich indigenous conflict resolution mechanisms of the diverse ethnic groups in the country. For instance, in the Gadaa system, an indigenous democratic socio-political system of the Oromo, the Oromo people believe peace is achieved when they live with *Waaqa (God)*, *uumaa* (creator), *uumama* (nature), and other fellow humans in harmony.[109] This is strongly believed in the gadaa system that peace is the gift of *Waaqa* (God), which humans are obliged to maintain as per Gadaa laws.[110] The Gadaa system incorporates an indigenous worldview and peacemaking processes. Nevertheless, the Gadaa System, inscribed in 2016 on the Representative List of the Intangible Cultural Heritage of Humanity, has been neglected in the country for a long period of time.[111] The Proclamation also did not refer to such a global heritage. Similarly, the indigenous conflict resolution of the Gamo people in Southern Ethiopia represents a time-honored and socially equitable method of resolving disputes among the general populace.[112] There are also other indigenous conflict resolution mechanisms in different parts of the country and they could have been resorted to in order to address the conflicts in Ethiopia.

The objectives of the Commission set under the Proclamation are worth consideration here. One of the objectives is to identify the root causes of the differences on fundamental

[105] National Dialogue Commission Establishment Proclamation, *supra* note 6, preamble.

[106] Awet Halefom Kahsay, National Dialogue in Ethiopia: Key Issues for Consideration, **Africa Up Close, May 10, 2022. Available at** National Dialogue in Ethiopia: Key Issues for Consideration | Africa Up Close (wilsoncenter.org). Accessed on 21 June 2023.

[107] *Id*.

[108] In fact, Art. 3(1) of the Proclamation states that the Commission shall be guided by the basic principles of national dialogue including, but not limited to: a) inclusivity; b) transparency; c) credibility; d) tolerance and mutual respect; e) rationality; f) implementation and context sensitivity; g) impartial facilitator; h) depth and relevance of Agendas; i) democracy and rule of law; j) national interest; and k) using national traditional knowledge and values.

[109] Negasa Gelana Debisa, Building peace by peaceful approach: The role of Oromo Gadaa system in peace-building, Cogent Social Sciences (2022), 8: 2023254, available at Building peace by peaceful approach: The role of Oromo Gadaa system in peace-building (tandfonline.com). Accessed on 27 May 2023.

[110] *Id*.

[111] The Gadaa system was registered at the eleventh session of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage took place in the United Nations Economic Commission for Africa Conference Centre in Addis Ababa, **from 28 November to 2 December 2016**. For details, refer to Eleventh session of the Committee - intangible heritage - Culture Sector - UNESCO. Accessed on 9 June 2023.

[112] Heron Gezahegn Gebretsadik, Indigenous Conflict Resolution: Social Institutions and their Role in Peacebuilding in Ethiopia's Gamo Community, International Journal of Research and Innovation in Social Science (IJRISS) |Volume VI, Issue IV, April 2022|ISSN 2454-6186, available at Indigenous Conflict Resolution: Social Institutions and their Role in Peacebuilding in Ethiopia's Gamo Community (rsisinternational.org). Accessed on 20 May 2023.

national issues and identify the topics on which the discussion will take place.[113] Accordingly, it is the Commission itself that is entrusted with identifying the national agendas and topics upon which dialogue is to be conducted. This is further strengthened under Article 9(3 and 4) which empowers the Commission to identify differences among different political and opinion leaders and also between societies on national issues through studies, public discussions or other appropriate modalities and to craft agenda for dialogue.

At this juncture, it is logical to question the extent to which the Commission is able to sort out the critical issues of national concerns without inviting other stakeholders especially opposition political parties. From the very outset, this seems to be in clear contradiction with the other objective of the Commission, i.e. ensuring that the National Dialogues are inclusive, led by a competent and impartial body, with a clear focus on the cause of disagreements, guided by transparent system, and have a plan to implement the results of the consultations.[114]

The other critical issue in weighing the Ethiopian national dialogue is the credibility of the conveners. The Proclamation to establish the Dialogue Commission provides that the legitimacy and credibility of National Dialogue processes is contingent upon among others the capability and impartiality of the entity that facilitates and leads the deliberations.[115] Accordingly, it is important to examine the legality, credibility and impartiality of the Commissioners. The appointment of the Commissioners is governed under Article 12 of the Proclamation. First, the Secretariat of the Speaker of the House of Peoples' Representatives shall receive from the public, political parties and civil society nominations of individuals who could serve as Commissioners. Second, the office of the Speaker of the House shall prepare a shortlist of at least fourteen potential candidates, disclose it to the public, and submit it to the Speaker of the House. Third, the Speaker consults with the leadership and representatives of opposition political parties, civil society organizations and the interreligious Council on the list of nominees. Lastly, the Speaker submits to the House nominations for appointments to the post of Commissioners.

In relation to the nomination of the interim commissioners, invitations were made to the public through various media outlets to recommend potential candidates. However, there is no conclusive evidence of whether they are in fact nominated by the public, political parties or civil societies as required by the law. Instead of such a dubious offer, the invitation should have been preceded by a genuine discussion with key political parties, armed and non-armed, as well as elites. All stakeholders whose voice is needed at the negotiation tables at a later stage should have a say as to who the conveners should be. Even assuming that discussions have been made with some members of the public and political parties seated at convenient places, no consensus had been reached with such armed political parties as the OLA about who the conveners could be. The appointments of

[113] National Dialogue Commission Establishment Proclamation *supra* note 6, Art. 6(1).

[114] *Id*.

[115] *Id*. Preamble.

the Commissioners have been made at a time when the Ethiopian government was vowing not to negotiate with the OLA.

As mentioned in the foregoing paragraph, the nominations of the selected Commissioners were presented by the Speaker of the House of Representatives to the same House for approval. In addition, the Commission is made accountable to the same House.[116] It has to be noted here that the Speaker and members of the House are the results of the 6th National Election of Ethiopia held in 2021 in which the ruling Prosperity Party is declared to have won 410 out of 436 seats.[117] The election was also boycotted by the OLF and the Oromo Federalist Congress (OFC), two prominent lawfully registered political parties of the largest region of the country.[118] As such, the election was conducted in the absence of a true challenger especially in Oromia. This is further corroborated by the assassination of the Oromo icon Hachalu Hundessa on June 29, 2020, after which the government detained key political figures such as Bekele Garba and Jawar Mohammed thereby making them unable to take part in the election.[119] Likewise, the election did not take part in the Tigray region as the region conducted its region-wide election.

The Proclamation goes on to list the duties and responsibilities of the Commission which includes identifying and enabling participants to take part in a national dialogue conference in accordance with clear criteria.[120] This indicates that it is only with the blessing of the government that a particular individual or group takes part in the dialogues. And the proposed dialogue is at a tough time when thousands of people remain behind bars including leaders and members of prominent political parties such as the OLF and the OFC, government critics, journalists, and activists. According to the Ethiopian Human Rights Commission, in Oromia, victims of enforced disappearances include opposition political party members, as in the case of members of the OLF and the OFC.[121] Even assuming, but not endorsing, that the established National Dialogue Commission satisfies all requirements and that the dialogues are made in compliance with the guiding principles, there still remain questions of implementation. A well-designed national dialogue would remain in a vacuum if not followed by concrete implementation steps.[122] Key national institutions such as the military, judiciary and electoral body may also lack the requisite

[116] *Id*. Art. 4(2).

[117] National Election Board of Ethiopia, The Six National Election Result, available at Election Result | National Election Board of Ethiopia (nebe.org.et). Accessed on 1 July 2023.

[118] Mistir Sew, EIEP: One vote forewards, two steps back for Ethiopian democracy, Ethiopia Insight, 28 August, 2021, available at EIEP: One vote forwards, two steps back for Ethiopian democracy - Ethiopia Insight (ethiopia-insight.com). Accessed on 3 July 2023.

[119] *Id*.

[120] National Dialogue Commission Establishment Proclamation *supra* note 6, Art. 6(6). This is evident from Article 4 (1) of the Proclamation which provides that the Commission is an organ of the federal government.

[121] Ethiopian Human Rights Commission, *supra* note 58. The Commission stressed that the alarming level of loss of lives, physical injury, and suffering of civilians in various parts of Oromia need to end peacefully subject to independent investigations.

[122] The experience of Yemen can be considered as a good example in this regard. The Yemeni National Dialogue was admired for its inclusiveness at first. It later failed because of, among others, the challenges it faced in the course of implementation.

independence.[123] Accordingly, even if Ethiopia holds a national dialogue which is the best of its kind, there is no guarantee to ensure its implementation and it may succeed or fail.[124]

Establishing structured links between a national dialogue and other political processes is another vital measure.[125] National dialogue is just one mechanism to tackle political crises and violent conflicts and is often preceded or accompanied by other steps. In Ethiopia, there are other ongoing processes such as the enactment of Transitional Justice Policy and irregular peace talks with armed groups. Accordingly, it is hardly possible to establish a proper link between all the ongoing alternatives.

5. Conclusion and Recommendations

Ethiopians are usually heard saying "Nothing is more important to their country than peace." This is perhaps because arms, in the end, only lead to destruction. In other words, there are no military solutions to political problems. The need for national dialogue in Ethiopia is now urgent, both to prevent crises and to help make long-term changes. This is so because a national dialogue can be a useful approach along the path toward sustainable peace.

In line with the foundational principles of peace-building, the shape, form, and structure of any national dialogue need to be tailored to the specific context of the concerned country. National dialogues are usually expected to achieve inclusion; broaden participation; advance justice; and resolve fundamental issues of identity, forms of governance, constitutional priorities, and political reform. National dialogues, however, are not a panacea. As there are some countries where national dialogues became fruitful, there were also countries in which the dialogue efforts became futile. The successes and failures all depended on how the respective countries adhered to the basic principles of national dialogues. More importantly, it is possible to conclude that national dialogues are best conceived as part of a broader continuum of mutually reinforcing local, subnational, and national efforts that foster dialogue, forge agreements, and drive toward peace.

Ethiopia's effort towards ensuring sustainable peace is appreciable. However,

[123] According to an author, the unhealthy political and military power linkage has compounded Ethiopia's problems. *See* Alem, *supra* note 66.

[124] There is no consensus as to whether the proposed national dialogue would lift the country out of the crisis. Some authors are hopeful that the national dialogue initiative will help the country achieve a national consensus on issues that matter. For instance, *see* Yohannes Gedamu, Ethiopia's national dialogue can unify the divided nation, Opinion, Aljazeera, 27 January 2022, available at https://www.aljazeera.com/opinions/2022/1/27/ethiopias-new-national-dialogue-can-unify-a-divided-nation. Accessed on 5 July 2023. However, others argue that the exclusion of armed groups such as the OLA, from the process might deem it a failure from the start. E.g. *see* Milkessa M Gemechu, Ethiopia's new national dialogue cannot deliver inclusive peace, Opinion, Aljazeera, 27 January 2022, available at https://www.aljazeera.com/opinions/2022/1/27/can-ethiopias-national-dialogue-deliver-inclusive-peace. Awol Allo agrees that an all-inclusive national dialogue could contribute a lot in resolving the current Ethiopian crises but argues that a national dialogue that commences by excluding critical actors cannot lead to sustainable peace. He adds that a national dialogue process that does not include the OLA cannot be considered inclusive. *See* Awol Allo, Ethiopia's National Dialogue Needs to Include Everyone, FP, Argument, January 24, 2022, available at https://foreignpolicy.com/2022/01/24/ethiopias-national-dialogue-needs-to-include-everyone/. All accessed on 21 June 2023.

[125] Meressa and Dawit, *supra* note 43.

the way the adopted proclamation, and the overall approach of the government is one that needs to be reconsidered. The legal and institutional frameworks should guarantee that all stakeholders are the owners of the processes, procedures, and results of the dialogues. A defective procedure will only result in a defective result.

Due attention should be given to trust building between and among all concerned actors. Likewise, it has to be remembered that peace thrives and bears fruit when planted in the soil of justice. In this regard, an Oromo saying goes "*biyya haqni/dhugaan hin jirre, nagaan hin jiru*," which literally means "there is no peace in a country where there is no justice/truth." Creating an enabling environment for a genuine dialogue is not a matter to be left to the future, but it is a prerequisite. Without a strong and respected national facilitator and buy-in from a sufficient coalition of the country's groups, a national dialogue is unlikely to produce any meaningful change. Furthermore, the government should bear the primary responsibility for organizing, facilitating, and financing the national dialogue in consultation with all political and opinion leaders, armed and unarmed equally. Thus, the process must be inclusive and credible from the start, and there must be an enabling political and social environment to foster conversations, forge agreements, and build consensus on the fundamental political questions that have been destabilizing Ethiopia for decades. Only after such a genuine and open dialogue can the country make progress in solving its problems and moving forward.

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Original Article

The Posture of Anticipatory Self-Defense under International Law Underpinning Russo-Ukraine War

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Abstract

The West accuses Russia as aggressor state following her declaration of 'Special Operation on 24 February 2022', however, Russia plays down these accusations by arguing that her measures are intended to diffuse the serious national threat posed by NATO's Eastward expansion, in particular the proposed membership of Ukraine to NATO (i.e., a state back yard to Russia). Therefore, this paper, first, examines whether there is truthfulness in Russia's claim of anticipatory self-defense. Secondly, if there are grains of truth in Russia's claim, then it will proceed to investigate whether international law is permissive of such claims. For fruitful analysis, the qualitative approach method has been duly consulted. In this regard, the UN Charter and Customary International will be duly consulted. The finding of the paper reveals that the Russian Federation has the inherent right to anticipatory self-defense due to NATO's determination to encircle her via its open-door policy to the state's backyards to Russia.

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ACRONYMS

NATO: The North Atlantic Treaty Organization
RES: Resolution
UNC: United Nations Charter
VCLT: Vienna Convention on the Law of Treaty
WARSAW: Treaty of Friendship, Co-operation and Mutual Assistance

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1. Introduction

International law on the use of force has gone several miles in terms of circumscribing states' rights to have recourse to the use of force. Ended as per what is stipulated under the UNC it is only self-and collective self-defense that states are bestowed with the right to legitimately resort use of force.[1] Despite the relentless efforts made to limit recourse to the use of force, the principal law dealing with the use of force namely, the UNC is devoid of clarity on a major theme concerning the use of force meaning the Charter provision is not lucid on whether anticipatory self-defense is the right of states facing an imminent and grave threat from the adversary party. The center of gravity in the debates lies in the words "Nothing…shall impair" because for the proponents of anticipatory self-defense, these words are not meant to abridge anticipatory self-defense rights states acquired under customary international law; for them in certain situations in which no armed attack occurred, states have the right to strike first in order to defuse the imminent threat, however, protagonists, however, contended, the aforesaid words are inculcated in the Charter merely to affirm that the right to self-defense, which is of course, to be exercised, the aftermath of happing of an armed attack, is not restricted to member states to the UNC rather available to non-member states, hence, the Charter has no aim of bestowing a very broad right to use of force in the absence of armed attack. Lauterpacht is one of the earliest scholars in the existing debate who insisted on his part that anticipatory self-defense was implicitly extinguished by Article 51 in 1945.[2]Hence, in due regard to the controversial nature of the status of anticipatory self-defense, this paper will pay visits to the VCLT in as much as the rules of interpretation ingrained there will be much helpful to pass a verdict on whether state's recourse to anticipatory self-defense is legitimate because as tipped herein before, the debate hinge on how to construe article 51 of the UNC to wit on whether it is permissive or prohibitive of anticipatory self-defense.

Corollary to the controversial nature of anticipatory self-defense, the confrontation and rivalry between the Russian Federation and NATO is beyond the grasp of the Russia and Ukraine war, though it has reached the climax following the break out of war between those two states on February 24, 2022.[3] The duel for geopolitical supremacy in the Eurasian landmass is over and above the realm of the ongoing Russo-Ukraine war[4].Throwing the gasoline in the fire, the Russian troops crossed Ukraine's territory from the north, east, and south following the order made by Russian President Vladimir Putin. On February 24, 2022. At 4:50 A.M. Putin made a public

[1] John H. Currie, *Public International Law* (2nd ed., Toronto, Irwin Law Inc., 2008), p.459, See also, Tom Ruys '*Armed Attack ' And Article 51 Of The UN Charter: Evolutions in Customary International Law and Practice* (1st ed., New York, Cambridge University Press, 2010), p. 59

[2] Murray Colin, *The Inherent Right of Self-Defense in International Law*, New York (Springer, New York, 2013), P.97

[3] P.Murphy, T. J., "*Here's what we know about how Russia's invasion of Ukraine unfolded*," February 24/2022, Available at https://edition.cnn.com/2022/02/24/europe/ukraine-russia-attack-timeline-intl/index.html (Accessed on May 28, 2023)

[4]Valur IngImundarson (2022), "The 'Kosovo Precedent' :Russia's Justification of Military Interventions And Territorial Revisions In Georgia And Ukraine", LSE IDEAS Strategic Update, July 2022, p.9-10

speech, where he asserted that a special military operation was commenced in Ukraine to protect the people, who have been subjected to abuse and genocide by the Kyiv regime for eight years, this allegation of genocide and abuse of Russian speaking societies in Ukraine was also claimed by the Russian separatist in Donbas region. President Putin in his speech also added that Russia has no desire to control the whole of Ukraine.

Coupled with the humbled endeavors of adjudicating the posture of international law on anticipatory self-defense, the paper aims at untangling the riddle of whether the Russian Federation claims that her 'special military operations' are born out of the national threat posed by NATO's vigorous Eastward expansion or it is another case of the wolf in the sheep to wit whether it is a desired pretext for Russia to unlawfully grip territories of a sovereign nation (i.e., Ukraine). As per Russia, it is a forced measure calculated to avert the catastrophe by doing nothing, whilst NATO bombs fall on her soil. For Russians, the Eastward expansion of NATO via openly pursued membership of the state's backyard to Russia is a policy designed to encircle Russia in as much as the proposed membership of Ukraine into NATO will make it convenient for NATO to easily roll its Tanks and war machineries into Russia's territory. Some political and military commentators are convinced by the Russian side of the story, while others rebuffed it and argued *that the acts represent Russia's attempt to expand to states formerly members of the Soviet bloc, which typically exemplifies Putin's neo-imperial foreign policy*[5]. For them, NATO's Eastward extension to include states that were formerly under the USSR sphere of influence will be helpful in nurturing democracy and human rights in the region.

For Russia, NATO enlargement speaks another fact. Its position on the matter is summed up in President Putin's February 24 speech in which he announced the "special military operation," he said in reference to Ukraine: -

"The problem is that in territories adjacent to Russia, which I have to note is our historical land, a hostile "anti-Russia" is taking shape. Fully controlled from the outside, they are doing everything to attract NATO armed forces and obtain cutting-edge weapons.… It is not only a very real threat to our interests but to the very existence of our state and to its sovereignty. It is the red line that we have spoken about on numerous occasions. They have crossed it".[6]

Moreover, after the commencement of the war, Putin has given more clarification on the goals of the operation:- On July 29, 2022, Putin stated that the "ultimate aim" of the war in Ukraine is "the liberation of the Donbas, the defense of its people, and the creation of conditions which would guarantee the security of Russia at large."[7] Those, who rally behind NATO's elongation, argue that its Eastward expansion will make the region a beacon of democracy, and ensures political stability and democratic reform in Central and Eastern

[5] Bartosz Gierczak, "The Russo-Ukraine Conflict", Research Gate, March 10, 2021, Available at https://www.researcahgate.net/Publication/349948624.12,p.7

[6] Mary Chesnut, "US/NATO-Russian Strategic Stability and the War in Ukraine", CAN Occasional Paper/8, Available at https://www.cna.org/reports/2023/06/US-NATO-Russian-Strategic-Stability-in-Ukraine.pdf, (Accessed on July 11, 2023) , P. 3

[7] Chesnut, "US/NATO-Russian Strategic Stability and the War in Ukraine", Ibid.,p.8

Europe.[8] They say "No issue is more central to NATO's goal of building a peaceful political order in Europe than relations with Russia."[9]

In this regard, therefore, the paper harbor interest in investigating whether Russia's portrayal of the NATO Eastward movement as a threat to her national security stands amenable rational mind; to hit this goal, the paper will undergo a historical audit of the relationship between NATO and Russia, in particular, it will examine how the two rivalry groups namely, the West chiefly, represented by the USA and the Russia Federation formerly known as USSR managed to avert nuke war and canvassed the future security structure of Europe in times when the ideological contestation was at the climax stage practically during the "*Cold War",*[10] were there was even good news speedily circulating about the hopes that one day Russia will be a member of NATO.[11]

2. Methodological Approaches of the Paper

The paper in order to address the aforementioned primal legal and factual quarries has deployed doctrinal/qualitative research methodology with the view to get the best palatable answers to the issues the paper invoked. In tune with this, the paper has investigated several legal and political journal articles, commentaries, and working papers written by renowned geopolitical commentators and legal writers on the theme at hand and, cross-examined each paper against the other in order to separate the wheat from the chaff. But, a word of a caveat here is in order: the internet nowadays is engulfed with the flux of papers that give deaf ears to the claims raised by Russia, while echoing and amplifying day and night Ukraine's versions of the facts triggering this bloody war without even sparing minutes to question their validity. Therefore, these facts have drudged the author to examine whether there is any grain of truth in Russia's allegations that the Eastward expansion of NATO poses a threat to Russian national security, hence, Russia, which could force Russia to quickly act to halt the proposed membership of Ukraine to NATO via the wheels of anticipatory self-defense, whose status under international law will be separately entertained in this paper by aligning the historical reasons that saw the establishment of NATO and detailed scrutiny of the cold war settlement between the two big powers of the then world namely, USA and USSR.

3. Terms of the Cold War Settlement, Dishonorably Acts of the West, and the Status of Anticipatory Self-defense Under International Law

[8] Jeffrey William, "NATO Expansion: Benefits and Consequences", University of Montana, 2001, Available at https://scholarworks.umt.edu/etd?utm_source=scholarworks.umt.edu%2Fetd%2F8802&utm_medium=PDF&utm_campaign=PDFCoverPages, (Accessed on July, 11,2023)P. ii

[9] Gierczak, "The Russo-Ukraine Conflict", Ibid., P.72

[10] Cold War stands to represent of period of geopolitical tension between the Soviet Union and its satellite states (Eastern and Central European states), and the United States with its allies (the Western European countries) after World War II (i.e. (1945-1991) were the two superpowers were primarily engaged in an ideological war between the capitalist USA and the communist Soviet Union without engaging in direct large-scale fighting between the two sides, Available on https://www.drishtiias.com/pdf/cold-war.pdf, Accessed on July 11, 2023

[11] Vyacheslav Gorskii, "Problems and Prospects of NATO-Russia Relationship: the Russian Debate Final Report "NATO Euro-Atlantic Partnership Council Fellowships Programme 1999-2001, June 2011, p.11

Michael Gorbachev took the initiative to smoothen soar relationship with the West. This has been amplified in his foreign policy that was directed towards eliminating confrontation with the West and as a sign of good gesture towards that road, he made far-reaching concessions in arms control negotiations that aimed to meet the Western demands.[12] It is reasonable to deduce that the USSR would not assent to demolish her image of super military and political power to get nil. *Cleary, domestic factors of economic impoverishment pushed USSR to lean towards the West for financial aid, though the economy may have been limping*[13], USSR's power back then was untouchable and in equal parity with the USA even in some areas of military exceeding the USA (i.e. interims of Nuclear Stockpiles), hence, in the due account of antagonism and rivalry between the two major superpowers, the author, would like to pose this question "would USSR agrees too such generous terms without the West pledging to give her national security guarantees?. The USSR took political commentators and even the West by surprise when she assented to abolish the WARSAW pact, withdraw half a million of its soldiers from East Germany, and dismantle the Cold War mentality[14] whilst not being stubborn in insisting on the liquidation of the adversary military alliance, whose reasons of existence ab-into was to counterbalance the growing and expanding power of the USSR and her WARSAW Pact, if possible, to annihilate USSR[15]?. Take note that East Germany was supposed to serve as a buffer zone and the first line of defense for any West assault against mainland Russia, which goes to explain why there was a garrison of half a million soldiers of the USSR in East Germany. Moreover, corollary to this, the USSR walked the talk in seeing the world free of nuclear war in such a terrifying period when there was even talk of nuclear war by discarding her military alliance (i.e., the WARSAW Pact).

Much relevant to our topic: - unlike how some picture the Cold War settlement, Daniel Deudney, and John Ikenberry render an argument that the prevailing atmosphere leading to the agreement was not take it or leave it mode, ended it was to be remembered rather a unique settlement in history in a sense that the negotiation was not between a victorious and a defeated nation, rather military wise, it was an agreement between equal parties. [16]Hence, the paper will analyze what kind of licit expectation the USSR harbored, whilst coming to terms with the West when she took such decisive measures of withdrawing from East Germany and accords to dismember the WARSAW Pact, moreover, related to this, an inquiry will be made on how Russia perceives security wise the abridgment of the legitimate expectations underpinned in the cold war settlements.

3.1. The Posture of Anticipatory Self-Defense under International Law: Untangling the Riddle via Rules of Treaty Interpretation

[12] Lilita Dzirkals, "Glasnotes and the Soviet Foreign Police", A Research Paper Done Under the Sponsorship of RAND Corporation, 1990, p. 1

[13] William, "NATO Expansion: Benefits and Consequences", Ibid., p.11

[14] Dzirkals, Ibid.,P.7

[15] "NATO's Purpose After the Cold War", p. 1

[16]Daniel Deudney & G. John Ikenberry, "The Unraveling of the Cold War Settlement", *Survival: Global Politics and Strategy*, Vol. 51 No. 6, 2011,p.1

As hinted here in before controversy persists on the posture of international law towards anticipatory self-defense. It managed to pull both proponents and opponents. For the opponents the words 'if an armed attack occurs', interpreted literally, imply that the armed attack must have already occurred before force can be used in legitimate self-defense; there is no right of anticipatory self-defense against imminent and impending danger of attack.[17] However, supporters of a right of anticipatory self-defense claim that Article 51 does not limit the circumstances in which self-defense may be exercised; they deny that the word 'if', as used in Article 51, means 'if and only if'.[18]

3.1.1 The Mother of All Confusions is Sheltered on the Word 'if an Armed Attack Occurs'

The bone of contention on the status of anticipatory self-defense as hinted before lies in the differing understanding of eminent scholars on the phrase "if an armed attack occurs", the words that riddle the posture of anticipatory self-defense. The antagonists contended that if we read such words to be permissive of anticipatory self-defense before the actual occurrence of an armed attack, then it will widen states recourse to war, which are something the Charter aims to avoid. This position is extracted from the rendition of the preparatory work of UNC and it is representative of the 'restrictive school of thoughts' on self-defense.

The antagonists' opponents based on recourse to the drafting records of the UNC associate self-defense with the 'happing of armed attack'.] The explications go on to assert:-Self-defense will be lawfully bound to exist whenever an attack is made by a State against another member state.[19] This school of thought bolsters its position by spelling out the statement made by a Colombian representative during the discussions on article 51:-accordingly, the representative said that "if at any time an armed attack occurs, that is, an aggression against a State, self-defense, whether individual or collective ... shall operate automatically ... until such time as the Security Council may take the appropriate punitive measures ...".[20] This restrictive schools epitomized by the antagonists of anticipatory self-defense trough resort to the travaux preparatoires affirms that article 51 qualifies the exercise of individual and collective self-defense by inserting a double procedural condition, as well as a substantive condition, to wit the happing of an 'armed attack'. The 'armed attack' requirement thus constitutes an integral part of Article 51; therefore, no self-defense can be exercised if no armed attack occurs.[21]

Well, Akehurst vehemently rejects the restrictive school of thought in his eloquent expression "From the practical point of view, the exclusion of a right of anticipatory self-defense deprives the 'innocent' state of the military advantage of striking the first blow…"[22] Nevertheless, the proponents anticipatory self-defense boldly and glaringly altercate for the reading of anticipatory self-

[17] Peter Malanczuk, Akehurst's, *Modern Introduction to International Law* (7th ed., New York, Routledge, 2002), P. 311
[18] Ibid., p.311-312
[19] Ruys ,'*Armed Attack',* Ibid.,p.64
[20] Ibid
[21] Ruys ,'*Armed Attack',* Ibid ., p.67
[22] Malanczuk, Supra note 15, Id., p. 311-313

defense under article 51 of the UNC from two sets of angels; from the outset, they blame the antagonists for miss-reading the UNC. This expansionist school of thought, unlike the restrictive, persistently disputes attempt to circumscribe the right to self-defense in cases of occasioning armed attack. For them, the word "inherent" has been deliberately inserted in the UNC art. 51 to denote the existence of an inherent right of self-defense pre-dating the Charter provisions. No argument can, therefore, be drawn from the wording "if an armed attack occurs" in Article 51 intending to impose limitations upon the right of self-defense based on the happing of self-defense. Moreover, relying upon that phrase alone does not lead to the conclusion that armed attack is a necessary prerequisite to self-defense:

[a] proposition that "if A, then B," is *not* equivalent to, and does *not* necessarily imply, the proposition that "if, and only if A, then B." To read one proposition for the other, or to imply the latter form the former, may be the result of a policy choice, conscious or otherwise **...** such identification or implication is assuredly not a compulsion of logic.[23]

For the expansionist school of thought "if the right to self-defense is juxtaposed with the happening of armed attack then the Charter purpose namely, maintenance of international peace and security will not be realized in as much as Article 2(4) of the Charter requires Members to refrain not only from the use of force, but also from the threat of force. If states had to wait for an armed attack to occur before diffusing imminent threats, then the maintenance of international peace and security would be fares and fanfare. If states waited for such an attack, they would then become responsible for the restoration, instead of maintenance, of international peace and security."[24]

The Travaux Preparatoires of Article 51 and Art. 31 of the VCLT

Murray Colin Alder provides strong arguments in favor of interpreting Article 51 in a way that embraces the right to anticipatory self-defense prior to the commencement of an armed attack. The position of the author is deeply impeded in the statement that it is unnecessary to go *travaux preparatoires* of Article 51 in order to unlock the stand of the Charter on anticipatory self-defense. Reference to the *travaux preparatoires* is warranted only in times to assist the interpretation of a treaty provision, some ambiguity or obscurity arising from it must be evident or the provision must lead to a manifestly absurd or unreasonable result if plainly applied a treaty provision is full of ambiguity or obscurity arising from it must be evident or the provision must lead to a manifestly absurd or unreasonable result if plainly applied. None of these preconditions appear to have been fulfilled at the time of the creation of the *Charter*, as no controversy arose over the effect of Article 51.[25] This means consultation to travaux preparatoires will be made (i.e. in line with art. 32 of the VCLT) if the first rules of treaty interpretation ingrained under art. 31 of the VLCT entailed absurd and irrational results, if not no need to visit art. 32. The commentary borrows Brownlee's disposition on the posture of anticipatory self-defense under the Charter. For Brownlee, the

[23] Leo Van den hole, "Anticipatory Self-Defence under International Law," *American University of International law Review*, Vo. 19, Issue 1 (2003) , p. 84-85

[24] Ibid

[25] Van den hole, "Anticipatory Self-Defence under International Law," Ibid., P. 85

word "inherent" is inserted uniquely under Article 5, unlike other provisions of the UNC to pull the Charter towards the totality of the right to self-defense including anticipatory self-defense, whose status under customary international law before the promulgation of the Charter is plain and uncontested meaning the width and breadth of self-defense is inclusive of anticipatory self-defense, whilst negotiations were ongoing for drafting of the Charter. For that reason, the word self-defense under Article 51 should be read in line with ordinary understanding in times when the Charter provisions were coined in a sense to be inclusive of anticipatory self-defense. Would we be accused of fetching into the jar unreasonable results for sticking with ordinary meaning approaches to untangle the riddles of Article 51? Not at all because firstly unpacking treaty provisions via recourse to the ordinary meaning of words is one tool of treaty interpretation as envisaged under article 31 of the VCLT, secondly, bypassing the ordinary meaning approach and restoring to travaux preparatoires is justified only whenever the path followed under ordinary /plain/ meaning scheme upshots absurd and ambiguous results, but to the issue at hand such will not be the case because for all intent and purpose interpreting article 15 to be inclusive of anticipatory self-defense enhances inherent right to self-defense by states because forcing state to wait until the commencement of armed attack will severely incapacities the victim state capability to lawfully respond aftermath of entertaining such devastating attack by the enemy; well now a days as we know a state is capable of inflicting fatal injury in an age where many states possess destructive and sophisticated weapons following the explosion of technological development.[26]

3.2. Could NATO be a Reliable Partner for Endeavours to Build Democracy and Human Rights?

Some political figures and commentators openly welcome NATO's expansion to the East and Central European Countries. The reasons for such an approach are the perception that NATO will accelerate the wheels of Democracy and Human Rights in those regions. However, the reality is far more isolated than the rhetoric. What happened during NATO rides into Libya is a living witness to this assertion. By thwarting the aims underpinned under the UN Resolution 1973 NATO members catalyzed the fall of the Gadhafi regime, which is telling that the West is currently using NATO to get away with regimes not sympathizers and affiliated to them in as much as the overall objectives of the Res. was to save civilian lives by restricting the doing power of the Libyan military (i.e. the Resolution authorizes the UN members to establish 'no-fly zone on the Eastern part of Libya, not to alter regime), the portrayal of the West as forerunners of human right and democracy is a false flag masking cruel intents of scramble for nation's resources. During the ride whilst setting aside the overall intent of the resolution the West embarked on hostilities entailing harm to non-combatants, which defies the 1977 UN Additional Protocol to the Geneva Convention of 1949 for the protection of Civilians in international armed conflict (i.e. Protocol I See Article 48). The members of the coalition used armed forces to speed up the demise of the Mohammed Gaddafi regime in

[26] Ruys, Supra note 21,Ibid.,p.84-89

Libya though under international law the prerogative of change of government is an inherent right of the Libyan people as part of self-determination. Even evidence is openly circulating that the post-Gaddafi regime established (i.e. the National Transitional Council or NTC) does not have a free hand in the governance of public affairs in Libya. The operation has hit its goal of instilling puppet servants in the West so that the ultimate goal of exploiting the nation's abundant resource (i.e. oil) will be possible in a Neo-Colonialism fashion.[27]

In the contexts of Eastern and Central, Waltz also decries the role played by NATO expansion in the democratization process in Eastern and Central Europe: "One may wonder, however, why this should be an American rather than a European task and why a military rather than a political economic organization should be seen as the appropriate means for carrying it out. The task of building democracy is not a military one. The military security of new NATO members is not in jeopardy; their political development and economic well-being are."[28]

3.2.1. Appraisal of the Use of Force in the Russia-Ukraine Conflict

On 24 February 2022, Russia launched what she calls it "special military operation" whilst the West called it an invasion of Ukraine by Russia, or Putin's war. Whichever name was used, on that day Ukraine was under attack by military force or armed force and it is still ongoing. There are different narratives of the war in Ukraine most are biased on some political and geopolitical issues. Here the paper will indulge in the analysis of whether there is a grain of truth in Putin's speeches made to explicate the reason behind for pressing peddles of the Russian war machinery that obliterated Ukraine's territorial sovereignty. As per Putin Russia is compelled to launch the special military operation due to the boiling of anti-Russia sentiment in states adjacent to the Russian Federation in particular, if Ukraine joins NATO, then the two will collide to attack Russia, and as a result, the special operation will go ahead with the view to diffuse national threat presented by NATO encirclement path.

Then the lingering theme is to asses and passes a verdict if there is any factual truth in the words of Putin about Russia being threatened by NATO expansion. This examination will be performed by appraising on what basis the West and USSR worked towards the abatement of military confrontation in the periods preceding the demise of the WARSAW Pact. Secondly, the investigation will be made into the factors that caused the coming to the scene of NATO.

Russia didn't declare war on Ukraine, the use of force by Russia against Ukraine was named a special military operation. The first time this name was used in a speech given by Russian President Vladimir Vladimirovich Putin on February 24, 2022. In this speech several justifications for the use of force against Ukraine was provided by Putin, the first justification given by Putin. Putin is this "the expansion of the NATO bloc to the east, bringing its military infrastructure closer to the Russian border", and "the military machine is

[27]Brooke A. Smith-Windsor, ed., *The North Atlantic Treaty Organization's Intervention in Libya its Political and Legal Implication for Peace and Security Architecture of the African Union: A view from Africa*, (Rome, NDC Forum Paper Serious, 2013), P.140-143.

[28] Eunika Katarzyna, "The Debate on NATO Expansion", *jstor*, Vol. 7, No. 4 (2008), p.7

moving and, I repeat, is coming close to our borders". [29]

From what is stated by President Putin, we can understand that one of the justifications for the use of force by Russia on Ukraine was anticipatory self-defense. Putin claimed that NATO's military machinery is approaching the Russian border more speedily than anyone can predict, therefore, in his view, pacifying the danger that comes with NATO's rapid encirclement is a task that does not wait for later deliberation, and hence, if Russia didn't acted swiftly and decisively, the benevolent ideals of protecting territorial integrity and freedom from destruction will be unachievable. He stated this kind of situation has happened in the past and that this generation should learn from the past mistakes of inaction spelled out in his words "We know from history how in 1940's and early 1941's the Soviet Union tried in every possible way to prevent or at least delay the outbreak of war. [30]This end among other things, he tried literally to the last not to provoke a potential aggressor, did not carry out or postponed the most necessary obvious actions to prepare for repelling an inevitable attack and those steps that were nevertheless taken in the end were catastrophically belated,", "as a result, the country was not ready to fully meet the invasion of NAZI Germany which attacked our motherland on 22 June 1941 without declaring war".[31]

3.2.2. Factors Necessitating Establishment of NATO: - Shifting Wheels Beyond the Policy of Containment to Expansionism

NATO was created with the view to counter-balance the growing influence of Stalin's USSR following the fall of NAZI Germany where the USSR managed to share a slice of the cake by dividing Germany into the sphere of influence namely, the East-West. In 1948 the Soviets embarked on consolidation of its hold over Berlin in defiance of the Western world, which alarmed the mindset of the West about the type of new rivalry they were going to face. Forthwith to counterbalance the Soviets, they formed NATO. [32]

NATO included in its Charter the famous Article 5, which states "The Parties agree that an armed attack against one or more of them […] shall be considered an attack against them all". This mechanism of collective defense took place in order to punish the potential aggressor, believed to be represented by the Soviet Union itself. After West Germany (the Federal Republic of Germany) entered into NATO (i.e., 1955); the Soviet Union moved to create the Warsaw Treaty, in order to work as a 'counter-alliance' to the Atlantic Organization[33]. In the Prologue of the Warsaw Pact's Constitution, the danger of a new war in Europe was mentioned in the form of a Western threat to the national security of the 'peaceful European states', namely, the States kept under the control and influence of the Soviet Union.

[29]Full Text: Putin's Declaration Of War On Ukraine, spectator.co.uk: https://www.spectator.co.uk/article/full-text-putine-s-declaration-of-war-on-ukraine/, Accessed on May 28, 2023,

[30] Spectator, Supra note 26, Ibid

[31] Ibid

[32] Valdir Da Silva Bezerra, "NATO-Russia's 'Conflictual Relationship': 'Instability' As A Defining Factor In the Political Interaction Between Moscow And The Atlantic Alliance", *Eurasian Research Journal*, ERJ, Vol. 4, No.3(2021), P. 9

[33] Ibid

Soviet assumed for herself the warden of the socialite's world.[34]

3.2.3. When the Cold War was at its Climax

The preparation for nuclear war went intensively when the tension was reaching to apex. The Soviet was determined to fight with nuclear if the policy of deterrence failed and war broke out. They have built extensive facilities to protect the Soviet leadership from the American intercontinental USA nuclear strike[35]. Americans too were nervous about the possibility of a major nuclear war with the USSR. Ronald Reagan gave the green light for the production of costly weapons programs such as the MX missile system, a railroad track of 200 missiles rotated among 4,600 shelters to be constructed along the track in Nevada and Utah, making it more costly for the Soviets to have to hit them all, the Strategic Defense Initiative, anti-ballistic missile system, and deploying the Pershing II missiles in Western Germany all depicts that nuclear war was anticipated.[36]

The military tension and confrontation continued for decades entailing the division of Europe and fundamentally changing the European soil "from a safety zone to a zone of danger and instability". The soviet leaders came to realize at the end of the 1990s -1990 and the beginning of the 1990s that the wind of change was blowing in the Soviet Satellite states (i.e., East and Central Europe); hence, the USSR must become open and align itself with the liberal economic and political order of the West. People's discontent with the sluggish economic situation within the USSR spurred rapprochement with the West faster than anyone expected[37].

A word of caveat has to be stated here. Though economic impoverishment forced the Soviet to lean towards the policy of rapprochement towards the West and seeks assistance from the same can never be implied by any standard the Soviets were by far the weak side when they set for tables of negotiation, for instance, the Soviet cut deals with the West for significant reduction in armaments. They entered into negotiations having significant leverage over events in East and Central Europe owning to her military superiority though it was questionable the extent, to which the crawling economy can carry forward the overstretched military infrastructures. There was no confusion in the West that the bargain was between equals. The plain evidence of this can be fetched from the offer tabled by the West German leader Kohl to Gorbachev when he proffered financial assistance if the USSR assented to the Unification of Germany; if there was a feeling of triumphalism from the West then they would have forcefully unified Germany or stated in other words, the Western states were certainly reluctant to use military power for the sake of unifying Germany in as much as they that feared the possibility that Gorbachev or somebody else could use military

[34] Ibid

[35]Evolution of Soviet Strategy, file:///C:/Users/wku/Desktop/self/Nuke%20war.pdf, P. 22

[36]"Gorbachev`s New Thinking, the Cold War, and the Fall of the Soviet Union", https://dra.american.edu/islandora/object/0809capstones%3A21/datastream/PDF/view, Accessed on July, 14, 2023 P. 21

[37] Özlem Tür**,** "NATO's Relations With Russia And Ukraine", June 2010, https://www.nato.int/acad/fellow/98-00/tur.pdf, (Accessed on July 13, 2023) P.4-5, See also Dzirkals, Glasnotes and the Soviet Foreign Police", Ibid., p. 2-3,

force. In that case, they were even ready to retreat.[38]

The last leader of the Soviet, Michael Gorbachev, was known to have vigorously pursued the police and the West was less hostile to the USSR than previously thought. He has encouraged a strategic reassessment that minimizes the theme of inherent Western aggressiveness, highlights the possibilities of East-West cooperation, and identifies the main military threat to the USSR as an accidental nuclear war rather than a premeditated Western attack.[39] His foreign policy underscored that the USSR and NATO should cooperate to build stability in Europe[40]. He took unprecedented measures of unilateral reduction of soviet troops from Eastern and Central Europe as well as posed the arm-race, reduced stockpiles, and consented to the unification of Germany.[41]

Based on the seeds sown by Gorbachev, Russian leaders trekked on the same path though the USSR was deceased. Russia pursued a pro-Western orientation in foreign policy and continued its close cooperation with the Alliance until the issue of NATO enlargement was proposed, which Russia considers against its vital interests.[42] To Russian dismay, the West has not reciprocated to the several unilateral unthinkable concessions Russia made since dating back to the commencement of the same by Gorbachev. The question worth investigating is why? The reason lies in the USA's (i.e., the main architect of NATO) policy of building a unipolar world that revolves only around the orbits the USA designs, hence, any resilient and resisting power like Russia that stands in the way of the USA's unipolar world must kneel down.

3.3. The Fading A Way of the Cold War Settlement

USSR was deceived by the increasing appearance of the West as a goodhearted, benevolent actor, that would be respectively accommodative of the USSR's interest, hence, the USSR would not lose a thing by reproaching the West, which motivated her to terse down the East-West iron curtain. [43]Moscow was not only checked by American power and purpose but acted in the context of a wider Western system that made American power more restrained and less threatening. This system and the active diplomacy that embodied its principles made Soviet reorientation and retrenchment possible. This new reality made Soviet reorientation possible. In the sequence of events that marked the end of the Cold War, the pivotal juncture was the Soviet Union's decision to withdraw from its extended ramparts in Central and Eastern Europe. This decision was premised upon the judgment of Soviet leaders that the West would not exploit Soviet vulnerability by encroaching on its historic defensive parameter and sphere

[38] Tuomas Forsberg (1999) ,"Power, Interests And Trust: Explaining Gorbachev's Choices At The End Of The Cold War", https://library.fes.de/libalt/journals/swetsfulltext/15222750.pdf, Accessed on July 14, 2023, P.610-611

[39]Bruce Parrot (1988),"The Politics of Soviet National Security under Gorbachev", https://www.ucis.pitt.edu/nceeer/1988-801-10-Parrot.pdf, Accessed on 14, 2023, p. iii

[40] Hannes Adomelt (2006), Gorbachev's Consented to Unified Germany's Membership into NATO, Working Paper, https://www.swp-berlin.org/publications/products/arbeitspapiere/Consent_to_Nato_ks.pdf,Accessed Retrieved on 07/15/2023 P. 4

[41] Tur,"NATO's Relations With Russia And Ukraine, Ibid.,P.4-6

[42] Tur, "NATO's Relations With Russia And Ukraine, Ibid, p. 3

[43] Ibid., P.46

of influence to threaten core Soviet security interests.[44]

The 20 years since the ending of the Cold War have seen a slow but sure erosion of the principles and architecture of the settlement. Instead of a new world order of comity and integration, the relationship between Russia and the West is marked by grievance, disappointment, and unfulfilled expectations. The sources of this deterioration are several.[45] But much of this souring is the result of American policies. American foreign policy, so successful at the moment of settlement, has pursued goals contrary to the settlement's principles. America's image of benign, respectful, and accommodationist of the interests of others is long gone promises.

One reason is that domestic interest groups have excessively shaped American grand strategy. The United States has also undermined the settlement by exploiting its advantages without considering Russian interests. An inflated sense of American unipolar prerogatives, combined with the ascent of an aggressive neo-conservative ideology, has generated an American foreign policy that has lost its sense of restraint and sensitivity to the interest of others.*[46]*

The Cold–War settlements were premised on the overarching belief that NATO would pay respect to the fact that East and Central European territories remained in under the USSR's zone of influence. Stated otherwise, the idea of extensive NATO expansion was simply outside the realm of the thinkable at that time. [47]The central point of the deal was to instill cooperation between the Soviets and the West as partners for the security of Europe. The tone of the settlement was most importantly, for the Soviets and the USA to work hand in hand towards the maintenance of European peace and security, back then it was underscored that the two would enter into a new spirit of partnership; a far cry from the previous threatening rhetoric and tensions that had been a hallmark of their relationship for more than a generation.[48]

In sum as far as NATO expansion is concerned two things can be said, firstly the aggressive expansion policy it has pursued backfires upon the terms of the settlement to end the Cold War confrontations, and secondly, NATO elongation part from betrayal to the Cold War agreement that the West made not to expand to the East and Central European state, apart from being the betrayal, the reasons offered for the expansion namely, accelerating the wheels of democracy and human rights is fares and fanfare. The credentials of NATO for democracy and human rights are doubtful because NATO has accepted states with poor records of democratization and human rights into membership. This is confirmed in the case of Portugal, one of the twelve original signatories of the Washington Treaty, which possessed "an authoritarian form of government" until the 1970s. The same situation characterized the admission of Turkey and Greece, which were also not democracies at the time of their accession.[49]

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[44] Deudney & Ikenberry, "The Unraveling of the Cold War Settlement", Ibid., P. 47

[45] Ibid., p.49

[46] Ibid

[47] Deudney & Ikenberry , "The Unraveling of the Cold War Settlement", Ibid.,P.50

[48]Post–Cold War U.S.-Russian Relations—What Went Wrong, https://www.jstor.org/stable/pdf/resrep21005.6.pdf, P. 6

[49]Ibid.,p.10

Secondly, NATO has not been endowed with a provision that expels states whose record of democracy and human rights slashed down after acceptance to membership. What is also interesting is that "there is no legal basis for the ejection of a state from NATO, within the North Atlantic Treaty or elsewhere. By ejection, I mean revocation of a state's status as a signatory of the North Atlantic Treaty, and thereby of the benefits of the security commitment in Article 5. The only mention of exit from the treaty is in Article 13, which allows for voluntary exit with a year's notice." However, there was a time when NATO "dealt with members whose governments have not always supported democratic values. When such situations arose—for example, with Greek and Turkish military regimes in the late 1960s and early 1970s—other Allies effectively isolated or excluded them from sensitive discussions. In those instances, suspending either or both would have risked sparking a nationalist backlash against the Allies—or possibly a war between the two long-time adversaries."[50]

If the main adversary party to the West and USA is found to be deceased (i.e. USSR and her WARSAW Pact) then by implication NATO should have been abandoned in as much as the thingness of military alliances is predicated on the existence of another enemy military alliance, therefore, there is no reason for NATO to be durable because the adversary alliance corporality has come to end. The existence of NATO was predicted by the overarching need to pool the military capacities of all its member states towards defensive lines against a robust threat posed by the then Soviet Union. [51]Now if the existence of the USSR and WARSAW Pact shatters away, so should the existence of NATO.

The two representatives of the neorealist school of thought, Kenneth N. Waltz and John J. Mearsheimer, aired out that "without an external enemy (i.e., the Soviet Union) the Alliance would lose its reason for existence." Waltz further stated "It is the Soviet threat that provides the glue that holds NATO together. Take away that offensive threat and the United States is likely to abandon the Continent." This is why many expected the organization to "wither away or, at best, to stagnate and decline in importance.[52] If so what reasons lay behind NATO's enlargement to Central and East Europe? In the view of Kenneth Waltz, the enlargement of the Alliance constitutes "an American policy designed to maintain and extend America's grip on European foreign and military policies.[53]

3.3.1. Russian Federation No Longer Poses Security Threat to the Collective West

"The Cold War is over. The United States won, and we all agreed to this. So why have you decided to re-open the competition?"[54] The demise of Communism in Europe, the dissolution of the Warsaw Pact, and the collapse of the Soviet Union have ushered in a new era and a new set of challenges and opportunities. Today Europe is whole and free, from the Atlantic to the Urals and beyond. There is no longer a threat looming on the

[50] Frydrych, "The Debate on NATO Expansion", Ibid., P.10
[51] Frydrych, "The Debate on NATO Expansion", Ibid., p. 3
[52] Ibid.,p.3-4
[53] Ibid.,P.6
[54]Thomas M. Hamilton, "Avoiding The Rush: Reasons To Go Slow On NATO Expansion", https://apps.dtic.mil/sti/pdfs/ADA399232.pdf, P.1

horizon of Europe and, with the Soviet/Russian troop withdrawals and the arms reduction treaties of the Reagan and Bush eras, European and American cities have never been more secure. [55]Therefore, this all tips an argument that NATO expansion can longer be justified by the grounds of a national threat to the Baltic and adjacent states like Ukraine in as much as the reason for its existence has been dashed out due to the demise of USSR and her military alliance i.e. Warsaw Pact, rather after losing a cause for continuation, NATO is a risky to the Russian Federation national security because while Warsaw Pacta was dismantled, the military alliance of the West not only maintain a presence, it is dangerously and recklessly expanding encircle Russia. There are no convincing grounds for the alliance's unfriendly plans toward Russia to establish what a cordon sanitaire around the country is, in effect; the plans to advance the North Atlantic Alliance eastward are laying the foundation for unfriendly and even confrontational relations between Russia and NATO states in the future.[56]

In toto, the cause for NATO enlargement can be summarized one it is the master plan of the USA to get a free hand at the rich oil and gas fields of Central Asia and fling away any competitor party along that road namely, Russia because Russia is a major power on the region[57], secondly, the torch towards expansion was lighted in the Clinton campaign for presidency in USA. It was a calculated measure to get favorable votes from voters of East European origin. This was epitomized by the events that happened in October 1996. In this period specifically in October of 1996, in the midst of his re-election battle, President Clinton delivered a strong statement in support of accelerating NATO enlargement while campaigning in Detroit, an area rich in voters of East European descent.[58]

Void of cogent legal cause for its continuation, NATO is a curse for Russian national security. Russia perceives NATO's Eastward expansion as a threat because it will weaken Russia's defense capability taking into account that the two forces are foes and NATO is still a military organization[59]. In fact, the USA one of the major powers that drive NATO, its foreign policy is to see weaker Russia in the Eurasian landmass. NATO enlargement was not only a land grab that upset the geopolitical balance in Europe; it also constituted a violation of assurances given by Western leaders to then-Soviet president Mikhail Gorbachev that in exchange for Germany's reunification and NATO membership, the alliance would not expand eastward.[60]

From its inception NATO was an anti-Soviet military bloc, Russia views NATO as a key security threat. Today Russia is virtually surrounded on its western and southern borders by NATO member nations. This expansion refuels concerns that the United States' Europe-based missile defense system could threaten Russia's nuclear deterrence capabilities. To support this, Russian foreign minister Sergey Lavrov emphasized that Washington retains nuclear weapons on

[55] Ibid., P. 2
[56] M. Hamilton, Ibid.,P.12-13
[57] Jonathan Haslam, "Russia's Seat at the Table: a Place Denied or a Place Delayed?", *International Affairs*, Vol. 74, No. 1 (1998), p.129
[58] Frydrych, "The Debate on NATO Expansion", Ibid., p.7
[59] Gierczak, "The Russo-Ukraine Conflict", Ibid., p.12
[60] Ibid., p.8

European soil that are capable of hitting Russian territory, while Moscow has made dramatic redaction to its arsenal. In addition to the above, the USA is planning to pre-position heavy weaponry in East European countries that border Russia.[61]

It can be stated that the alarming rate to which NATO is enlarging and expanding to the East and Central Europe though the reasons for its corporality seized to exists, as well its open door police towards states with grim record of human rights and democracy coupled with an unsuitability of military alliance to instill human rights and democracy, the hostile attitude officials of the USA harbor towards Russia (i.e. USA being the main gear that shifts the cam meaning NATO) ,the inflammatory military activity the alliance is performing in states neighbouring Russian Federation, together with the near future promised membership of Ukraine to the alliance, end in proffering an argument that the primal reason for NATO elongation is to see weakened Russia influence in Eurasian Mass Land in favour of USA, moreover, the installation of military equipment in states nearby to Russia like Check Republic and the proposal of the same over Georgia tips in favour of argument that the ultimate goals are to ensure that Russia bows down via military encirclement and obliterating Russia's defensive capabilities, corollary to this, if Ukraine becomes NATO member then it will be easy for NATO tanks to roll easily into Russian territory because Ukraine is a state backyard to Russia. Therefore, the only path available to the Russian Federation is to force Ukraine to waive the idea of joining NATO via military action, state in other words, Russia's military operations are underpinned by anticipatory self-defense in as much as Ukraine's membership exposes Russia's first line of defense in due account of eminent membership of Ukraine into NATO.

4. Conclusions and Recommendations

4.1 Conclusions

- NATO's expansion towards East and Central Europe can be explicated by neither the acceleration of the wheels of democracy nor by human rights rather the overarching goals are to see Russia's defensive capabilities weakened via encircling her through speeding up membership of Russia's member states to NATO in as much as it paves the way the USA to establish unipolar economic hegemony in Eurasian Mass Land.
- The UNC lucks lucidity on whether anticipatory self-defense is permissible or prohibited, hence, resorting to the VCLT to untangle the posture of the Charter is found to be mandatory, and upshot to this, the plain/ordinary meaning approach to treaty interpretations is suitable to as far as the final result will be commensurable to the reason why the legal devise of anticipatory self-defense is designed.

4.2 Recommendations

- The UN Charter article 51 should be amended so that it will be a clear restatement of the customary international

[61]Zolotukhina, E., "Russia and NATO: Mutual Grave Threats, or Reactionaries?", July 30, 2015,cgsrs.org: https://cgsrs.org/publications/14

law permission of anticipatory self-defense because it will be helpful to avoid recourse to the law of treaties interpretation in the endeavor to have a clear picture of the status of anticipatory self-defense under international law.

- If the legality of the use of force by a permanent member of the UN is presented before the USC, then following the tones of principles of Natural Justice namely, "no one shall be a judge in his own case" (i.e. Nemo Judex In Causa Sua) that permanent member of the UNC should be disbarred from entertaining her own case, for this ends the UNC art. 27(2) ought to be amended
- The international community should stop echoing the narratives aired out by the West rather should have ears to the narratives forwarded by both and should endeavor to find a win-win solution for this bloody war, in this regard, it is suggested for that the international community to devise a security arrangement acceptable to Russia, Ukraine and NATO over the East and Central Europe.

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Wallaga University School of Law Legal Aid Center 2023 Report: The Success Stories and Challenges

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1. Introduction

The 2030 Agenda for Sustainable Development recognizes "the need to build peaceful, just, and inclusive societies which provide equal access to justice and are based on respect for human rights." Goal 16 and its target 3 in particular, highlight the importance of ensuring "access to justice for all" in achieving sustainable development goals. Free Legal Service (Legal Aid) means giving legal services free of charge to those who cannot afford regular legal services for different reasons. This service may be provided by government organs, non-governmental organs, and by higher education institutions. Therefore, access to legal aid is central to ensuring access to justice, especially for the poorest and most vulnerable people. As emphasized by the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, legal aid is an essential aspect of a fair, humane, and efficient criminal justice system based on the rule of law. Without access to legal aid, millions of people around the world are at high risk of having their rights ignored or violated because of lack of legal knowledge or lack of financial capacity. FDRE constitution and other domestic laws also grant the right to access to justice for all. Even though this right is provided under the constitution, there are certain groups of individuals who may face difficulties in enjoying this right because of their vulnerability, lack of legal knowledge, and because of their low economic status. These groups need legal aid services from concerned organs such as public universities. These categories are Women, children, victims of HIV/AIDS, disabled persons, poor people in the community as well as internally displaced persons/returnees.

Wallaga University Free legal aid was established to ensure access to justice for indigent societies. Apart from helping the society, the centers are meant to help students know how law is being practiced and implemented in real-life of society. Generally, the center is designed to address societal needs and to enable students to acquire practical knowledge by being actively involved in the real life of law in context.

2. Background

Wallaga University is a Public University located in the western part of Ethiopia and was established in 2006. As a public university, it has the mandate to teach, conduct problem-solving research, and provide various community service activities. The School of Law is a specific unit of the

university that renders free legal aid services for the surrounding community in addition to other community service activities/engagements. Besides producing legal professionals, the School of Law is also engaged in delivering free legal aid services to the indigent sector of the community since 2011, by establishing one legal aid center in Nekemte town. Currently, the school has 23 active and functional legal aid centers in which seven centers were located in the conflict zones to assist IDPs/Returnees and host communities. The centers are located in Sasiga, Gimbi, Shambu, Harato, Guduru, Bako, Gedo, Haro Limu, Jimma Arjo, Aanno,Gimbi, Mandi/Mana Sibu, Giday Ayana, Kiltu Kara, Boji Birmaji, Kiramu, Amuru,Nekemte Prison center, Nejo and Nekemte towns.

Wallaga University legal aid centres play a pivotal role in making justice accessible to those who are in need; particularly the poor and vulnerable groups in the society that will be adequately protected. By implication, members of the public in need of help in terms of full or partial (as the case may be) legal and judicial assistance will have recourse to the legal aid centers.

However, the success of the Wallaga University legal aid centers technically depends on its collaborations with various stakeholders – Local civil society organizations (CSOs), UN agencies, International non-government organizations (NGOs), and the general public and other relevant bodies - within the ambit of the legal establishment. This is essential for a proper feedback and referral/networking system. Since its inception, Wallaga University has recorded appreciable successes in defending the masses, especially the vulnerable. In expounding access to justice, it has intervened and undertaken litigation in many such matters of human rights abuses on behalf of many defenseless citizens resident in Wollega zones.

3. Partners of Wallaga University Free Legal Aid

Wallaga University's free legal aid centers work in collaboration with stakeholders like Civil Society Organizations the general public and other relevant bodies within the ambit of legal jurisprudence. Because rending free legal aid to ensure access to justice is the promotion and protection of human rights which in turn requires collaboration of different institutions for effective and quality service.

Currently, Wallaga University has a memorandum of understanding with the Ethiopian Human Rights Commission (EHRC), the Oromia Justice Bureau, and the Oromia Supreme Court. Furthermore, UNHCR has been supporting legal aid centers since the middle of 2020 to intervene with persons of concern in the areas of housing, land, and property for IDPs, Returnees, and Host Communities. UNHCR has been supporting the centers through different mechanisms such as donating vehicles, motorcycles, computers, generators, and finance to effectively implement the service.

4. Linkages with the Stakeholders

To be effective, rendering legal aid services requires the cooperation and coordination of various stakeholders. Wallaga University's free legal aid has many stakeholders with

which its cooperation is vital in the accomplishment of the center's objectives. Accordingly, the Zonal high court, woreda courts, and prison administrations provide offices for the center, the East Wallaga zone Justice office issues special license for the center, women and children affairs offices, and kebele administrations issue support letter that requests service from the centers are among the main stakeholders with which Wallaga University has a linkage.

5. **Services that centers provide:**
   - ✓ Legal Advice(Legal counseling)
   - ✓ Drafting legal documents such as statements of claims, defense, and appeal
   - ✓ Advocacy (Representation Service)
   - ✓ Participating in Alternative dispute Resolution representing clients.
   - ✓ Awareness Creation through different platform
   - ✓ Facilitating the issuance of civil documentation such as ID cards, Birth certificates

6. **Beneficiaries are:**
   - ➢ Women
   - ➢ Children
   - ➢ Vulnerable and poor people
   - ➢ IDPs
   - ➢ Refugees
   - ➢ Elders
   - ➢ People who live with HIV Virus
   - ➢ People with disability

7. **Strategies/Methodology for Implementation**

Recruiting legal aid experts and social workers at each center on a contractual basis which is renewable twice annually. Creating awareness about legal aid services and rights of Vulnerable groups including IDPs/Returnees within the affected communities by using different media such as FM radio, TV, Internet (social media), Flyers, and courtrooms during court sessions) to create a conscious community to prevent and pro-act on the problem. Besides, the center also uses volunteer law school staff and licensed lawyers. The center doesn't compromise the service quality and employs different service quality controlling mechanisms to these ends. To this end, Feedback and complaint mechanisms such as suggestion boxes were included in the legal centers (report gaps in service provision and access constraints). Organizing capacity development training for project staff (legal experts and social workers from the University) by law school staff and other experts from other concerns on identified gaps while delivering services. This capacity building also included local government officials and traditional as well as religious leaders and community representations.

To ensure that the legal aid centers/clinics are discharging their responsibilities inconsistent with the project, Wallaga University School of Law and the coordinator office assign a monitoring and evaluation staff. Throughout the implementation of the project data management tools and approaches were placed in all the legal aid centers and the coordinators of each center will be responsible for submitting reports on specific tasks performed every week. Internal reporting, monitoring, and evaluation took note of all constraints or impediments to

activities to undertake a regular evaluation of project goals and implementing strategies.

8. Summary of 2023 Performance Report

The **Wallaga University Free Legal Aid Service** shows tremendous progress from time to time in quality and accessibility and during 2023, a number of vulnerable groups are benefiting from the service of the center annually. Resisting all the challenges it faced, the center has managed to reach **15,691**. The service distributions were **1,413 Males** on Counseling, representation, and drafting legal documents and **1403 women** on Counseling, representation, and drafting legal documents. Besides, **7500 Males and 5375 women** have legal awareness's individual reached.

9. Opportunities

Women and children especially Gender Based on Violence (GBV) and child in emergency were reached by social workers of Wallaga University free legal aid. The geographical accessibility of the centers was increased to reach vulnerable groups of societies. The UNHCR project has supported the persons of concern by intervening in their needy, particularly Witness per diem and court fees for persons of concern facilitating the implementation of access to justice. The mechanism and procedure of referral pathway cases of GBV and child protection were developed from the coordination and collaboration of both government organs and NGOs

10. Challenges

- ✓ Security problems to monitor and supervise the activities at lower levels, particularly Woreda and Kebele. Besides, some centers were closed to function due to volatile security situations and the destruction of office equipment.
- ✓ Government policies and regulations to recruit staff timely (time frame for vacancy, screening, examination, approval of employment) and purchase facilities.
- ✓ High employment turnover due to low salary.

11. Summary

Wallaga University's free legal aid center provides legal services such as counseling, drafting legal documents such as claims, defense, and representation on litigations for children, women who are victims of domestic violence, people living with HIV, people living with disabilities, IDPs, etc. In addition, the center admits students for clinical courses and externship programs and they acquire basic knowledge of the practical world. Moreover, the center is providing basic legal education and awareness to hundreds of thousands of residents of East, West, and Horo Guduru Wallaga zones and two west Shoa zonal woredas. Capacity-building training is also one of the functions of the center to enhance the knowledge and skills of the center experts and local government officials.

Sample case and pictures

Mana Murtii Aanaa Horroo
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Lkk.Gal.24753

Guyyaa 12/08/2015

Sa'a 4:00

Abbaa murtii

Shuggux Tafarraa

Himattuun – **Kennaa Dhinsaa** – dhiyaatteetti

Bakka bu'aan – Rattaa Olqabaa – dhiyaateera

Himatamaan – **Misgaanaa Oliiqaa** – dhiyaateera

Galmeen kan beellamameeru qorannoof ta'ee, qorannee murtoo itti aanu kennineerra.

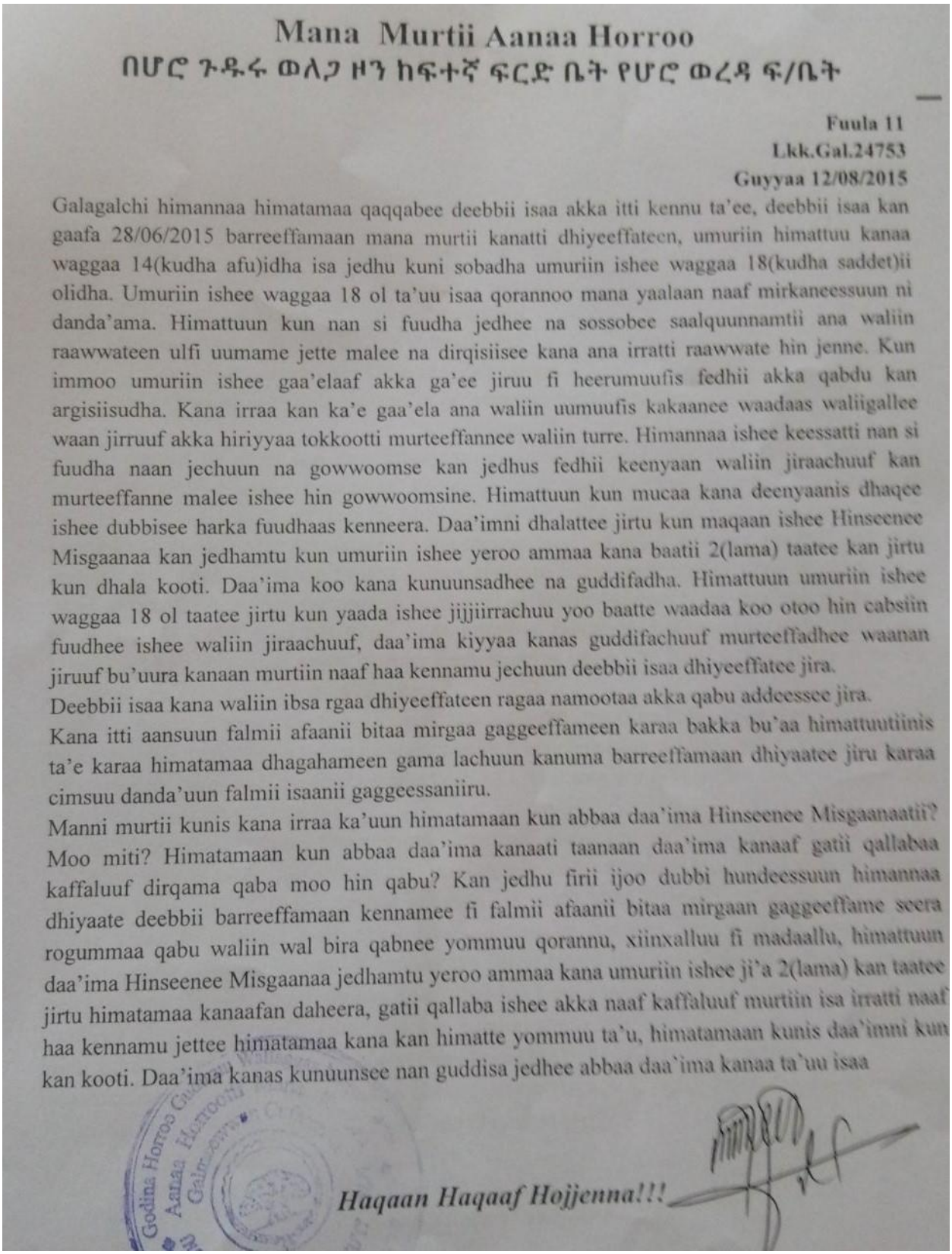
Murtoo

Murtoo kanaaf ka'umsa kan ta'e himannaa himattuun karaa bakka bu'aa ishee kan gaafa 08/06/2015 barreeffamaan mana murtii kanatti dhiyeeffattee jirtu yommuu ta'u, himatamaan kun bara 2014 keessa himattuun umuriin ishee waggaa 14(kudha afur) kan taate otoo isheen mana namaa obbo Dinqaayyoo Aganyoo jedhamu teessee barachaa jirtuu sossobee sin jaalladha, yoo guddatte gaa'elaaf geessu sin fuudha jedhee abdii itti horee ijoollummaa ishee irraa kan ka'e ishee gowwoomsuun wal quunnamtii saalaa ishee waliin raawwachuun daa'ima godhachuuf umuriin ishee ga'aa otoo hin ta'iin ishee ulfeessee mucaa durbaa maqaan ishee Hinseenee Misgaanaa kan jedhamtu yeroo ammaa kana umuriin ishee ji'a 2(lama) kan taatee jirtu ji'a Muddee bara 2015 keessa irraa dhalcheera.

Haa ta'u malee himatamaan kun iddoo mucaa kana daa'ima (himattuu) kana irraa godhatee as ishees ta'e daa'ima ishee irraa godhate gargaaruu fi kunuunsuu otoo qabuu lachan isaanii rakkina keessatti gadi gatee baqatee daa'ima isaa kana rakkinaaf saaxilee fi haamilee daa'ima (himattuu) kana illee guddaatti miidhee jira.

Kanaaf himatamaan seeraan mana murtii kanatti dhiyaatee bu'uura himannaa himattuu kanaan yoo ishee amane hanga himannaan kun murtoo ta'e tokko argatutti himattuu kanaa fi daa'ima himattuu kana irraa godhateef gatiin qallabaa isa irratti akka murtaa'u. Darbees abbummaan mucaa kanaa himatamaa kana ta'uu isaa mirkanaa'ee daa'ima kana seeraan kunuunsuu fi guddisuu akka qabu himattuun bakka jireenya isheef tolutti jiraattee dhala ishee fi kan isaa kan taate daa'ima Hinseenee Misgaanaa kan jedhamtu kana hanga umuriin ishee gaa'elaaf ga'utti guddisuu akka dandeessu himatamaan kun immoo abbaa daa'ima kanati jedhamee murtiin isa irratti akka kennamu jechuun himannaa ishee karaa bakka bu'aa ishee dhiyeeffatteetti.

Himannaa kana waliinis ragaa namaa akka qabdu addeessitee, ragaa barreeffamaa adda addaa immoo himannaa ishee waliin walqabsiisuun dhiyeeffatteetti.



Mana Murtii Aanaa Horroo
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Fuula 11
Lkk.Gal.24753
Guyyaa 12/08/2015

Galagalchi himannaa himatamaa qaqqabee deebbii isaa akka itti kennu ta'ee, deebbii isaa kan gaafa 28/06/2015 barreeffamaan mana murtii kanatti dhiyeeffateen, umuriin himattuu kanaa waggaa 14(kudha afu)idha isa jedhu kuni sobadha umuriin ishee waggaa 18(kudha saddet)ii olidha. Umuriin ishee waggaa 18 ol ta'uu isaa qorannoo mana yaalaan naaf mirkaneessuun ni danda'ama. Himattuun kun nan si fuudha jedhee na sossobee saalquunnamtii ana waliin raawwateen ulfi uumame jette malee na dirqisiisee kana ana irratti raawwate hin jenne. Kun immoo umuriin ishee gaa'elaaf akka ga'ee jiruu fi heerumuufis fedhii akka qabdu kan argisiisudha. Kana irraa kan ka'e gaa'ela ana waliin uumuufis kakaanee waadaas waliigallee waan jirruuf akka hiriyyaa tokkootti murteeffannee waliin turre. Himannaa ishee keessatti nan si fuudha naan jechuun na gowwoomse kan jedhus fedhii keenyaan waliin jiraachuuf kan murteeffanne malee ishee hin gowwoomsine. Himattuun kun mucaa kana deenyaanis dhaqee ishee dubbisee harka fuudhaas kenneera. Daa'imni dhalattee jirtu kun maqaan ishee Hinseenee Misgaanaa kan jedhamtu kun umuriin ishee yeroo ammaa kana baatii 2(lama) taatee kan jirtu kun dhala kooti. Daa'ima koo kana kunuunsadhee na guddifadha. Himattuun umuriin ishee waggaa 18 ol taatee jirtu kun yaada ishee jijjiirrachuu yoo baatte waadaa koo otoo hin cabsiin fuudhee ishee waliin jiraachuuf, daa'ima kiyyaa kanas guddifachuuf murteeffadhee waanan jiruuf bu'uura kanaan murtiin naaf haa kennamu jechuun deebbii isaa dhiyeeffatee jira.

Deebbii isaa kana waliin ibsa rgaa dhiyeeffateen ragaa namootaa akka qabu addeessee jira.

Kana itti aansuun falmii afaanii bitaa mirgaa gaggeeffameen karaa bakka bu'aa himattuutiinis ta'e karaa himatamaa dhagahameen gama lachuun kanuma barreeffamaan dhiyaatee jiru karaa cimsuu danda'uun falmii isaanii gaggeessaniiru.

Manni murtii kunis kana irraa ka'uun himatamaan kun abbaa daa'ima Hinseenee Misgaanaatii? Moo miti? Himatamaan kun abbaa daa'ima kanaati taanaan daa'ima kanaaf gatii qallabaa kaffaluuf dirqama qaba moo hin qabu? Kan jedhu firii ijoo dubbi hundeessuun himannaa dhiyaate deebbii barreeffamaan kennamee fi falmii afaanii bitaa mirgaan gaggeeffame seera rogummaa qabu waliin wal bira qabnee yommuu qorannu, xiinxalluu fi madaallu, himattuun daa'ima Hinseenee Misgaanaa jedhamtu yeroo ammaa kana umuriin ishee ji'a 2(lama) kan taatee jirtu himatamaa kanaafan daheera, gatii qallaba ishee akka naaf kaffaluuf murtiin isa irratti naaf haa kennamu jettee himatamaa kana kan himatte yommuu ta'u, himatamaan kunis daa'imni kun kan kooti. Daa'ima kanas kunuunsee nan guddisa jedhee abbaa daa'ima kanaa ta'uu isaa

Haqaan Haqaaf Hojjenna!!!

Mana Murtii Ol'aanaa Godina Horroo Guduruu Wallaggaatti

Mana Murtii Aanaa Horroo

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Fuula 12
Lkk.Gal.24753
Guyyaa 12/08/2015

himannaa isa irratti dhiyaatee jiru guutummaa guutuutti amanuun daa'ima kanas guddifachuuf fedhii akka qabu deebbii isaa dhiyeeffateera.

Kana irraa ka'uun himatamaan abbaa daa'ima kanaa ta'uu isaa amanee deebbii isaa waan kenneef bu'uura S/D/F/H/H/L – 242 fi S/M/O/K – 142(2) ajajuun bu'uura amanee jiruun himatamaan Misgaanaa Oliiqaa abbaa daa'ima Hinseenee Misgaanaati jechuun murtoo kennineerra.

Darbee himatamaan kun abbaa daa'ima kana ta'uu isaa iddoo amanee, daa'ima kanas guddifachuuf fedhii qabu iddoo ibsee, murtoo mana murtii kanaanis iddoo mirkanaa'ee, himatamaan kun guddina daa'ima isaa kanaaf kan barbaachisu akka humna isaatti isheef guutuuf waan dirqamuuf, daa'imni kunis qallabaa fi kunuunsa barbaachisaa ta'e abbaa ishee kana irraa argate guddachuuf mirga guutuu waan qabduuf, himatamaan kun gatii qallaba daa'ima kanaaf oolu bara 2015 irraa eegalee hanga daa'imni Hinseenee Misgaanaa jedhamtu umuriin ishee yeroo ammaa kana baatii 2(lama) taatee jirtu kun hanga umuriin ishee gaa'elaaf ga'utti qallabaaf kan ta'u, 1ffaa xaafii kg, 100(dhibba tokko), 2ffaa qamadii kg. 50(shantama), 3ffaa boqqolloo kg. 50(shantama), atara yookaan baaqelaa kg. 25(digdamii shan), gatii mi'eessituu qarshii 2000.00 (kuma lama) wagga waggaadhaan harka himattuu aadde Kennaa Dhinsaatti haa kaffalu jechuun S/M/O/K – 214 fi 215 irratti hundaa'uun murtoo kennineerra.

Ajaja

- Murtoo kenname kana irratti namni komee qabu yoo jiraate mirgi ol iyyanno eegamaadha.
- Baasii fi kasaaraa bitaa mirgaan of haa danda'an jenneerra.
- Galmeen kun murtoo argatee waan jiruuf cufameera, mana galmeetti haa deebi' jenneerra.

Awareness creation at Nekemte prison administration

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.Training on PSEA and HLP


UNHCR
Capacity Building Training For Free Legal Aid
Staffs on Addressing People of Concern
Through Professional Practice.


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