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Original Research

**Towards Human Rights-centered Sustainable Development in the Federalist Ethiopia:
Scrutinizing the Challenges and Opportunities**

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Abstract

The term sustainable development can be utilized in various manners according to different partisan interests; so it cannot be precisely elucidated in a single manner. However, it is possible to study the affairs of sustainable development with other notions like human rights, since sustainable development in its essence is the attempt of human beings to meet the needs of the present generations without compromising with the needs of future generations in all aspects. Therefore, sustainable development is a broad concept that deals with the capability of human beings to integrate their social, economic, environmental and political affairs in the way which cares for the present and future generations. Furthermore, human right is also a broad concept that extends from the right to live up to the right to have sustainable development. Thus, the concept of sustainable development does not hold water unless it is intermingled with the spices of respects for human rights and dignity. For this reason, to make sure that certain development is sustainable, it must be in the line of celebrating and enforcing fundamental freedoms and rights of the people at large. Thus, the material and financial accumulation and the increases in GDP cannot entirely witness the existences of sustainable development. Since warranting sustainable development necessitates a number of criteria; like human rights guarantees which encompass, Environmental, Economic, Social and Cultural Rights, Rights of Labor, the Right to Property, the Right to self-determination and others. Accordingly, the purpose of this research is to assess the existing challenges and opportunities to ensure human rights-centered sustainable development under the Ethiopian federation. To achieve its purpose, this research employs a qualitative methodology, which includes a review of related literatures, analyses of legal documents like the 1995 FDRE Constitution and other laws, and examining the practices. The findings of this research illustrate that there are legal and practical problems in warranting human rights-centered sustainable development in Ethiopia. In conclusion, to realize sustainable development, it must be substantiated by the recognition and enforcement of human rights guarantees; and the mere facts of increasing GDP without respect for fundamental rights and freedoms do not convey sustainable development.

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INTRODUCTION

In political history the concept of human rights and sustainable development is only an issue in democratic states; when and where the government and its officials are elected and

appointed democratically. Accordingly, in undemocratic government systems, where the rule of the law, not rule of the law is a custom of government; it is hardly possible to promote human rights-centered development. In democratic government systems, the concept of human rights and sustainable developments are considered as the different face of the same coin. In modern complex government systems, human rights and sustainable developments are correlative concepts. The attempt of ensuring sustainable development without guaranteeing and enforcing human rights in certain country doesn't hold water. Since, the concept of human rights is all inclusive which incorporates the political, social, economic and environmental rights; hence any development achieved in violation of human rights cannot be considered as sustainable as it violates one of these fundamental rights of either the present generation or the future generation in multifaceted ways.

In all its decisions, actions and inactions for resolving all political, social, economic, and environmental and development related complicatedness, governments have to use human rights as the center or as a corner stone. Since without respecting and enforcing human rights, it is unthinkable to bring political and socio-economic development, as well as, it is impossible to enhance environmental protection. Perhaps, it is not easy to define these fluid and too general terms sustainable development and human rights as any groups can employ these two concepts according to their partisan interest. For this reason, there is no consensus on the definition and scope of these phrases (Sustainable development and Human rights). However, commonly the concepts are highly related and intermingled within one another. The concept of sustainable development is all about giving due care for both the current and future generation in all aspects including political, social, economic and environmental concerns (United Nations World Commission on Environment and Development, 1987). Hence, it is all about the concepts of the exploitation of resources, the direction of investment, the orientation of technological development and institutional change must

progress all in harmony and enhance both current and further potential to meet human needs and aspirations in all affairs, like political and socio-economic matters. Human rights are the rights related to the nature of humankind. Therefore, they are attached to the nature of human beings. They are not manmade or molded by the government. These rights are bestowed by nature for human beings, and therefore, it is too wide to list all of these human rights principles in this short Article. Generally, human rights are extended from the right to live up to the right to have sustainable development.

Consequently, democratic governments must have their bases on the universally recognized human rights frameworks. They committed themselves to universal responsibility to respect, protect and fulfill these human rights, which comprise economic, social, cultural, civil and political rights to ensure sustainable development. Hence, to ensure human rights, centered governance; it requires legal frameworks that are enforced impartially, give full protection of human rights in all aspects, freedom from corruption, guarantee universal access to justice, especially by the poor, and foster sustainable development, including through the protection of ecosystems, and the vital services they provide for people, especially the poor.

Generally, in its broadest sense, the strategy for sustainable development aims to promote harmony among human beings and between humanity and nature and the pursuit of sustainable development requires the following points:

A political system that secures effective citizen participation in decision making, an economic system that is able to generate surpluses and technical knowledge on a self-reliant and sustained basis, a social system that provides for solutions for the tensions arising from disharmonious development, a production system that respects the obligation to preserve the ecological base for development, a technological system that can search continuously for new solutions, an international system that fosters sustainable patterns of trade and finance, and an administrative system that is flexible and has the capacity for

self-correction. (United Nations Documents Gathering, 1987)

Therefore, securing human rights and advancing sustainable development in a contemporary modernized system of democratic governance must be progressed hand in hand. For instance, Nelson Mandel puts in his speech as follows and it may have some help to point out that the relationship between human rights and sustainable development is indivisible.

“Like slavery and apartheid, poverty is not natural. It is man-made and it can be overcome and eradicated by the actions of human beings. And overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life.”(N. Mandela, Personal Communication, February 3, 2005).

Consequently, this Speech, by Nelson Mandela gives us some clues that even eradication of poverty and ensuring sustainable developments are considered as parts of human rights. So, the quest for having sustainable development is an act of claiming for the recognition, respect and fulfillment of human rights by the government under its legal system and the vice versa is true for the quest for sustainable development.

In the history of the Ethiopian government system, the concepts of human rights and sustainable development were recognized for the first time under the 1995 FDRE Constitution. In the era of absolute monarchies and military dictatorship, these two concepts or human rights and sustainable had never incorporated under the then constitutions. Following the paradigm shift in politics of Ethiopia from unitary to federalism; dictatorship to democratic governance, centralization to decentralization of powers, and recognition of the right to self-determination for the nations, nationalities and peoples of Ethiopia, the concept of human rights and sustainable developments are also established under the same constitution (FDRE Constitution, 1995: Chapter Three). The preamble of the FDRE Constitution declares as:

We, the Nations, Nationalities and Peoples of Ethiopia: Strongly committed, in full and free

exercise of our right to self-determination, to building a political community founded on the rule of law and capable of ensuring a lasting peace, guaranteeing a democratic order, and advancing our economic and social development; and firmly convinced that the fulfillment of this objective requires full respect of individual and people’s fundamental freedoms and rights, to live together on the basis of equality and without any sexual, religious or cultural discrimination.

From the wording of this constitution, one can deduce that the nations, nationalities and peoples of Ethiopia agreed to establish a state/government by their consents, which is based on the principles of rule of law, guaranteeing democratic order and has the duty to fully respect human rights, ensuring equality and advancing socio-economic development. Hence, clearly this preamble talks about human rights-centered development as it links the human rights issues with socio-economic development as well as it recognized the right to self determination.

Accordingly, a close look at the contents of the FDRE Constitution shows that more than two third of its contents contain the principles of human rights (FDRE Constitution, 1995: Articles 14-44). Thus, the sanctity of human right is recognized as one pillar of the FDRE Constitution and human right and freedoms, emanating from the nature of humankind, are inviolable and inalienable pursuant to the constitution (Ibid, Article 10). In addition, the concept of sustainable development is guaranteed in the constitution as parts of the human rights and democratic rights. Specifically, this constitution says, “The Peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular have the right to improved living standards and to sustainable development” (Ibid, Article 43(1)). Furthermore, the same constitution claims as, “All international agreements and relations concluded, established or conducted by the State shall protect and ensure Ethiopia’s right to sustainable development.”(Ibid, Article 43(2)). Therefore, human rights-centered development is recognized as constitutional

guarantees for the nations, nationalities and peoples of Ethiopia.

The problem is that the mere facts of recognizing and incorporating these golden principles to guarantee human right centered sustainable development is not enough to enforce it unless positive and specific laws are enacted. Institutions that ensure these rights are entrenched and the ruling government has committed itself and capable to enforce these guarantees in an appropriate manner, as well as, the peoples are educated and conscious about the human rights-centered sustainable development in order to claim for it under the Ethiopian federation. Generally, there are legal and practical problems in linking the idea of sustainable development and human rights in Ethiopia. Thus, the main objective of this research is to explore the legal and practical challenges that will hold back the human rights-centered sustainable development in Ethiopia. Furthermore, securing sustainable development is a daunting task; since it encompasses bundles of duties and transparency on the behalf of the government. Hence, under this research the challenges and opportunities in guaranteeing and enforcing political, social, economic, and environmental rights by the government of the nations, nationalities and peoples of Ethiopia to warrant human rights-centered sustainable development have been assessed.

MATERIALS AND METHODS

This research has attempted to make an appropriate review of the existing literature on human right centered sustainable development. Moreover, it endeavors to scrutinize the problems encountered in linking human rights with sustainable development in order to assure human rights-centered sustainable development in Ethiopia. Additionally, it strives to explore legal and practical opportunities prevailing in Ethiopia to establish human rights-centered sustainable development. To fulfill these objectives, it reviews various literatures written on human rights and sustainable development; critically analysis the FDRE Constitution of 1995 and other relevant laws, including national laws and international

treaties, as well as, it analysis the practices prevailing in Ethiopian federation on the issue of human rights-centered sustainable development.

Consequently, as its research methodology; this research has employed critical legal analyses, historical interpretations of human rights-centered sustainable development in Ethiopia, observations, personal experiences of the researcher and document analysis. Hence, its research methodology is a qualitative one. Accordingly, various related literatures, FDRE Constitution, other relevant laws, international treaties ratified by Ethiopia and the practices in Ethiopia on the matters of human rights-centered sustainable development has been analyzed and compared in detail to show the existing possible challenges and opportunities in warranting human rights-centered sustainable development in federalist state of Ethiopia.

RESULT AND DISCUSSION

Undoubtedly, the FDRE Constitution accommodates various constitutional promises under the guise of fundamental rights and freedoms (FDRE Constitution, 1995: Chapter Three, Article 14-44). Among these constitutional promises the FDRE Constitution recognizes socio-economic rights and human rights as the base of the constitution itself (Ibid). Socio-economic rights are generally those rights that contain claims to have an adequate standard of living and include the right to work under just and favorable conditions; the right to social security, the right to health, the right to housing, the right to food, and the right to education (Alemahu, 2010). Additionally, the FDRE Constitution incorporates long listed human rights and democratic rights guarantees like the right to life, the right to security of person, the right to liberty, prohibition against inhuman treatment, right of person arrested, right of person accused, right to equality, the right to access to justice, freedom of association, freedom of assembly, the right to self determination, the right to property, Economic, Social and Cultural Rights, Environmental rights and others (FDRE Constitution, 1995, Article 14-44).

Moreover, the FDRE Constitution gives recognition for the international treaties ratified by Ethiopia as binding laws to ensure human rights-centered sustainable development. Accordingly “All international agreements ratified by Ethiopia are an integral part of the law of the land” (Ibid, Article 9(4)). Furthermore, the FDRE Constitution gives a guideline in which these constitutional guarantees are interpreted. So human and democratic rights recognized under chapter three of the same constitution must be interpreted in line with the international human rights instruments, declarations and treaties in case of gaps, confusions and contradictions in the laws and constitution. It says. “The fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia”(FDRE Constitution, 1995, Article 13(2)).

Based on these constitutional principles, Ethiopia ratified numerous international human rights treaties to fulfill its universal and national duties to respect, protect and enforce human rights and warranting sustainable development. Out of the international human rights instruments relevant to the protection of economic and social rights, Ethiopia has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). While the first of these instruments is wholly devoted to socio-economic and cultural rights, the latter two, respectively enmesh women and children specific economic and social rights. At the regional level, the State has ratified the African Charter on Human and Peoples’ Rights (ACHPR), and the African Charter on the Rights and Welfare of the Child (ACRWC). Both these African instruments protect economic and social rights with another group of rights. All the above human rights instruments bind Ethiopia and its citizens are entitled to the socio-economic rights they provide for.

Hence, Ethiopia ratified the six human rights documents, i.e., the Covenant on Economic,

Cultural, and Social Rights (ICESCR), the Covenant on Civil and Political Rights (ICCPR), the Covenant against Racial Discrimination, the Convention against Torture, the Convention on the Rights of the Child (CRC) and Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which are considered as the most widely ratified documents and make up the core of the UN human rights system.

Pursuant to Article (13 (1)) of the FDRE Constitution the duty to enforce these constitutional guarantees and international human rights instruments clarified hereinabove are imposed up on the three wings of government as, “All Federal and State legislative, executive and judicial organs at all levels shall have the responsibility and duty to respect and enforce the provisions of this Chapter.” Therefore, the three wings of governments have the responsibility and duty to respect and enforce the human right, centered sustainable development indirectly; since all the provisions of chapter three of FDRE Constitution is dealing with these issues. That means, Article 14-44 of the 1995 FDRE Constitution is talking about human rights and sustainable development either directly or indirectly. Consequently the protection of socio-economic rights and the right to have sustainable development through Articles 41 and 43 of the FDRE Constitution respectively, and Article (9 (4))of the same constitution is further strengthened by Article 13 (2) which provides that “the fundamental rights and freedoms shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia. To make this discussion more clear; respecting and enforcing the human rights guarantees incorporated and recognized under the FDRE Constitution and International treaties ratified by Ethiopia have an inherent relationship; as well as, inseparable with the concepts of sustainable development under the Ethiopian federation and everywhere in the world. For instance, Articles 14 and 15 of the FDRE Constitution guarantee an inviolable and inalienable right to life, which would be devoid of much breath without the protection of

the rights to food, shelter, health care and other necessities of life. Having the right to liberty and security of the person without establishing responsible executive organs like the police and prosecution offices cannot be fruitful. Guaranteeing the right to labor without having the right to access to employment and form associations by the workers to improve their conditions of employment and economic well-being is useless. Warranting the right to development without the right to participate in national development and in particular, to be consulted with respect to policies and projects affecting the interest of certain community is not genuine, and recognizing the right to property without giving due care for the private property for the public at large is not as such satisfactory.

Though, the concepts of enforcing and practicing human rights-centered development is comprehensively recognized under the 1995 FDRE Constitution; it necessitates the accountable and transparent government wings (legislature, executive and judiciary) in all areas including law making, implementing and interpreting affairs. Accordingly, accountable and transparent legislature, which is able to enact favorable, comprehensive, consistent and detailed laws to promote and defend human right centered development should be created. Additionally, accountable and transparent executive organ must be established in order to issue genuine and refined policies to discharge their duty of ensuring human rights-centered sustainable development under the Ethiopian federation. Furthermore, without having impartial tribunals to adjudicate these human rights-centered sustainable developments in case disputes arise between the government and citizens or between private persons like companies, investors and others, the mere fact of guaranteeing these promises under the contents of the constitution remains futile, as a result, independent judiciary must be established. Therefore, the challenges of establishing these accountable and transparent governmental branches, as well as, the problems they are encountering in fulfilling their duties to ensure human rights-centered sustainable development have been scrutinized as follows:

Establishing Accountable and Transparent Legislature

The FDRE Constitution established an accountable and transparent government. The sovereign power is vested in the hand of the people (FDRE Constitution, 1995: Article 8) and the constitution is the supreme law of the land (Ibid, Article 8). The accountable and transparent government system is recognized as one pillar of the same constitution as a result the principle of rule of law is entrenched in the contents of the FDRE Constitution beyond any reasonable doubt in the following manner:

Article 12 Conduct and Accountability of Government

1. *The conduct of affairs of government shall be transparent.*
2. *Any public official or an elected representative is accountable for any failure in official duties.*
3. *In case of loss of confidence, the people may recall an elected representative. The particulars of recall shall be determined by law.*

From this caption of the constitution, one can deduce that the legislature is accountable for their failures. The same constitution imposes the duty to enforce this human rights based sustainable development (FDRE Constitution, 1995: Article 13). Since, the inherent power of the legislature/parliament is enacting laws; they enforce their duties through making favorable laws/proclamations to advance the human right centered sustainable development based on the power given to them under the constitution (Ibid, Article 51).

The FDRE parliament (House of People Representatives) has the power to enact specific laws/proclamations to ensure the social, economic and cultural rights (Article 41), the right to sustainable development (Article 43(1)), the right to labor (Article 42), the right to clean and health environments (Article 44(1)), criminal laws (penal codes) to guarantee peace and security of persons and their properties (Article 55(5)), and it shall issue civil laws if it deems necessary to establish and sustain one economic community (Article 55 (6)), under the FDRE Constitution of 1995.

Likewise, they enact various enabling laws which establish and determine the powers and functions of administrative agencies; like Human rights Commission (FDRE Constitution, 1995: Article 55(14), institution of the Ombudsman (Ibid, Article 55(15)), establish Courts (Ibid, Article 78(2)), appoint and determines the powers and functions of Auditor General (Ibid, Article 101), establish Election Board (Ibid, Article 102) and set up Population Census Commission (Ibid, Article 103). Plus it establishes and determines the powers and functions of various administrative agencies. For instance, Civil Service Commission (Proclamation No.515/2007), labor relation board (Proclamation No.377/2003), Social Security Authority (Regulation No.203/2011)), Environment Protections Institution laws (Proclamation. No. 295/2002)), and other related laws. Furthermore, the House of Peoples Representatives enacts laws which enable the House of Federation and Council of Constitution Inquiry to adjudicate and umpires human rights and sustainable development related disputes (Proclamation No. 250/2001/ and 251/2001 as amended). The problem is while enacting these laws and other international human rights treaties, which proclaim the advancement of human rights, centered sustainable development, the legislature encounters a number of problems as explored in the following manner:

To secure and enforce human and democratic rights which are already incorporated under the FDRE Constitution and International human rights treaties ratified by Ethiopia, sometimes the House of People Representative (HPR) has been enacted confusing laws or contradictory laws with the spirits of the constitution. For example, the HPR enacted proclamations which consolidate the powers and functions of the House of federation (HF) and Council of Constitutional Inquiry (Proclamation No. 250/2001 and 251/2001) to litigate these constitutionally guaranteed human rights based sustainable development violations. The problem is that the HF employs the laws enacted by the HPR even in case the proclamation issued by the HPR is being contested as inconsistent with the spirits of these constitutional guarantees. That means, all

proclamations are enacted by the HPR in Ethiopia; and also, the HF is mandatorily using the laws issued by the HPR to contest the laws enacted by the same organs (HPR). Therefore, how the HF is determined the constitutionality or unconstitutionality of laws and acts of the HPR while the HPR itself determines the powers and functions of the HF remains very confusing. Consequently, if any interested person, or nations, nationalities and peoples claims that their right to have human right, centered sustainable development is violated; like their right to health, their right to have clean environment, their right to have food, shelter, their right to education, their right to labor, their right to self-determination in general and other related constitutionally guaranteed rights have violated by the laws made by the HPR/the parliament, they must come up with their claims in front of the CCI and HF for seeking justice. In its simplest scenario, both the contested law and the laws through which the HF will utilize to resolve the contestation are enacted by the HPR under the present-day Ethiopian federal oriented legal system. At this juncture, it will not be conducive for the HF to adjudicate these types of cases since the HF's powers and functions are determined by the HPR beforehand. These confusing scenarios will makes the very general provisions of the constitution more ambiguous and vague to scrutinize and enforce in order to substantiate the human rights-centered sustainable development.

On the other hand, the relationship between the regional laws and federal laws are not clear under the current Ethiopian legal system; that is, if there is a contradiction between the federal laws and regional laws; there is no clear position concerning their hierarchy or which one is prevail. Pursuant to FDRE Constitution legislatures are established both at regional and federal level (FDRE Constitution, 1995: Article 50(2)). Hence, constitutions and laws are issued both at federal and regional level in the Ethiopian federation in the same manner with other federations like Germany and Switzerland. Accordingly, both the regional and federal parliaments are the duty to enact laws which promotes human rights-centered development to fulfill their constitutional duty

imposed up on them(Ibid, Article 13(1)). As result, both federal and regional states have the duty to formulate policy and strategies, as well as, to enact constitution, laws, regulations and directives, which enhance the human rights, centered sustainable development. The constitution puts in a vague sentence that the regional states and federal state must have a mutual relationship (Ibid, Article 52(8)). But the Ethiopian Constitution is silent as far as the thorny issue of regulating the relationship between federal and state laws in general (Fisseha, 2006)). Therefore, the question of the governing principle in case of conflict between state and federal law in the Ethiopian federation is not clear. There are certainly two views concerning the conflicts between federal and state laws in the federation (Ibid). If one adopts the federal supremacy clause by default, then most of the principles stated in this section discussing shared powers in other federations, will hold true in Ethiopia as well, that means federal law prevails over state laws (Ibid). But if one adheres to the 'supremacy of nations, nationalities and peoples' literally because of the principles stated in the preamble, the pretentious aggregate nature of the federation, Articles 8 and 39, then it may be difficult to state that federal law will pre-empt state law (Ibid). Perhaps the best compromise is to decide the issues on a case-by-case basis rather than subscribing to either principle on the abstract level (Ibid). Thus, challenges will arise in connection with the relationship of regional, state laws and federal state laws on the matters of these constitutional guarantees during enforcing human rights-centered sustainable development by the three wings of government both at federal and regional level in Ethiopia.

Then, if contradiction arises between state laws and federal laws on the same subject matter, which deals with the issue of human rights, centered sustainable development, there will be a problem of jurisdiction; as the concepts of human rights and sustainable development is both the same at federal and regional level. As adding insults to injury, the regional laws guaranteeing these fundamental human rights and sustainable development as listed from Article 14-44 of the

1995 FDRE Constitution are almost the direct replica of the federal laws. For instance, the right to life, the right to labor, the right to have clean and healthy environment, the right to have sustainable development and the like are recognized under both the federal and regional constitutions in the same manners. Hence, this may retard human rights-centered sustainable development, because if the laws are inconsistent, it is very difficult to reconcile them on the same issue, while the status of these laws are not specified constitutionally; since one cannot clarify which law is prevail. Both the federal laws and regional laws are the same or the direct copy of one another. On one hand the status or hierarchies of laws are not clarified neither under the federal constitution nor under the regional constitutions; hence, if incompatibility is raised, it is too difficult to resolve on the area of human rights and sustainable development. Therefore, the relationship between the federal laws and state laws must be constitutionally clarified in order to smoothly enforce the human rights-centered sustainable development in the contemporary Ethiopian federation.

Moreover, lack of sufficiently genuine and comprehensive laws on the subject matters of human rights-centered sustainable development is also another problem. Laws that ensure these human rights-centered sustainable developments are repetitively amended. As an example land law, investment laws, tax related laws, and others are repeatedly amended many times. For instance, the investment laws are a type of laws that must be perpetual in its nature. Because, if the investment laws and policies are changeable frequently it may create unpredictability concerning to the rights and duties of investors; this creates the sense of insecurity especially to the foreign investors and indirectly encumbers the development of Ethiopia. Since, it may reduce the inflow of FDI, because of the fear that emanates from the fact that there is a fragile investment law. But the greater problem is that the Ethiopian investment law is changed from time to time. For example, the Investment Proclamation No. 37/1996 was repealed by the Investment Proclamation No. 280/2002 and this proclamation

was amended by Investment (Amendment) Proclamation No. 375/2002 and proclamation number 373/2003 and the current investment law, Proclamation No. 769/2012 is enacted by repealing proclamation 280/2002 and its amendment. There are many amendments in between on each of these proclamations before their repeals and other investment related regulations and directives.

Of course, laws must be updated from time to time, to cope up with the present circumstance, but it must not be instantly amended again and again. At least laws should be predictable and perpetual for a certain period. If not, it may erode the confidence of the peoples on law and the trustworthiness of the legal system. Since, the people, the investors, company owners, contracting parties are not warranted under frequently changed laws.

Additionally, the HPR/parliament has the duty of oversight the acts of the other branches of government (the executive and judiciary while they are enforcing the laws and adjudicating cases respectively), whether they are enforcing this human rights-centered sustainable development or not is the other challenging task (FDRE Constitution, 1995: Article 51). The HPR has under the constitutional duty to “formulate and implement the country’s policies, strategies and plans in respect of overall economic, social and development matters”(Ibid). In fulfilling these duties the HPR is empowered to supervise the other organs of the government the executive and the judiciary (Ibid, Article 55). Look the FDRE Constitution Article 55(17 & 18) as follows:

The HPR has the power to call, to question the Prime Minister and other Federal officials, and to investigate the Executive’s conduct and discharge of its responsibilities. Also it shall, at the request of one-third of its members, discuss any matter pertaining to the powers of the executive; and it has, in such cases, the power to take decisions or measures it deems necessary.

To accomplish its constitutional duties the HPR uses different mechanisms like report (Ibid,

Article 74 (11)), budgetary process (Ibid, Article 51(10)), observation, and other similar mechanisms. Again, because of the shortage of time, technicality of subject matters, emergency and for the sake of flexibility, the HPR delegate its law making powers to the executive organs of the government. Accordingly, the executive organ (Council of Ministers) shall enact regulations pursuant to powers vested in it by the House of Peoples’ Representatives (Ibid Article 77(13)). Based on this constitutional provision, which allows the delegation of lawmaking powers, the council of ministers enacts innumerable regulations and directives to enforce their constitutional duty to ensure human rights-centered sustainable development.

However, in Ethiopia, unlike in other countries, there is no formal procedure by which the parliament can control the rule-making power of the administrative agencies. For example, except for the regulations issued by the Council of Ministers at the Federal level and by the respective counterpart federal units, there is no general formal requirement for other administrative rules to be published in the register (Negarit Gazette). An attempt was made to regulate the rulemaking process of the administrative agencies under the Draft Federal Administrative Procedure Proclamation No. 2001. Had the draft been adopted in the form of law, it would have been facilitated the so-called political control of rulemaking powers of the administrative agencies. Because the draft incorporated a number of requirements that ensure, among other things, public participation and publication of the rules adopted. Consequently the lack of having codified laws to control the rulemaking process of the executive organ has a negative impact on guaranteeing and practicing human rights-centered sustainable development. Since, there are no procedural laws to ensure the constitutionality and legality of the rule making process of the administrative agencies.

Creating Accountable and Responsible Executive organ of the Government

In a complex and multidimensional world, human rights help to delineate the respective obligations

and responsibilities of governments and other relevant development actors, impelling decision makers to be more responsive, providing information about their decisions and actions, and making them ultimately answerable to those to whom they are accountable (Global Thematic Consultation on Governance, 2013). The UN Center for Economic and Social Rights claims:

To be sustainable, legitimate and transformative, the new development framework must enable an environment where active and empowered citizens can hold their governments and the international community to account for what they are doing to meet commitments made internationally. Reframing development in human rights terms is not only an ethical and legal imperative; it can also enhance the effectiveness and accountability of future development efforts. Ultimately, human rights principles – turned into practice – can be the normative building blocks of a fairer, more sustainable and more just development paradigm for the 21st century (CESR | Center for Economic and Social Rights, 2013).

As one can infer from the above quotes, to assure human rights-centered sustainable development, the role of the government/executive is inherently crucial one. Without having accountable and responsible executive talking about human rights based sustainable development doesn't hold water. So well comprehensive laws and institutions must be established to make the executive organs at all levels answerable for the decisions, actions and inactions they have done and they are doing. So that, the executive organs' decisions and actions shall be subjected to certain sorts of review for its constitutionality and legality. If not, they may abuse and act beyond the power given to them. Everywhere in the world, executive organ of the governments has an immense governmental power, so they implement the laws, policies, decisions, and restricts the freedoms and liberty of the citizens in multiple ways. Consequently, executive may violate the right to have human rights-centered sustainable development more than the other branches of the

government. For instance, it is the executive organ which prosecutes the criminals, which investigates crimes, which formulates political, social, and economic policies, sign treaties, give and revoke various types of licenses, propose budgets, collect taxes, and others which affects the political, social and economic rights of certain citizens. So we should have appropriate laws and practices in which we control the executive organs of the government from encroaching into the constitutional guarantees for their political interest or even with the intention of promoting development they may violate the merits of human rights-centered sustainable development.

Accordingly, the FDRE Constitution makes the government accountable and transparent in general and executive organ in particular (FDRE Constitution, 1995: Article 12). Pursuant to Article 72 of the FDRE Constitution, the highest executive powers of the federal government are vested in the Prime Minister and in the Council of Ministers. The enormous amount of power is vested in the hand of the executive organ of the government. The executive shall follow up and ensure the implementation of laws, policies, directives and other decisions adopted by the House of Peoples' Representatives (FDRE Constitution, 1995: Article 74(3)). It shall decide on the organizational structure of ministries and other organs of government responsible for it; it shall coordinate their activities and provide leadership (Ibid, Article 77(2)). Moreover, the executive shall draw up the annual Federal budget and, when approved by the House of Peoples' Representatives, it shall implement it (Ibid, Article 77(3)). It shall enact regulations pursuant to powers vested in it by the House of Peoples' Representative (Ibid, Article 77(13)). Also the FDRE Constitution puts a huge amount of duties of the political, economic, social, cultural and environmental objectives (Ibid, Article 88-92) to ensure the political, socio-economic and environmental rights of the nations, nationalities and peoples of Ethiopia.

However, the concept of human right, centered sustainable development can be infringed in many problems. For example, through enacting laws or failing to enact laws, through enforcement of laws

and policies or failure to enforce the same; or as a reason of lack of impartial tribunals or judiciary to litigate the matter of human rights and sustainable development. So the challenges that have been prevailing in the attempt of ensuring human rights, centered sustainable development will be scrutinized as follows.

Firstly, though the FDRE Constitution makes the executive organ answerable to their actions and inactions as well as to their decisions; there are no comprehensively codified procedural laws in which one can make these executive at all levels accountable and transparent in all of their decisions. Currently, we lack comprehensive and codified laws by the parliament through which these executive organs' and their administrative agencies' enactments, acts and decisions are checked or reviewed for their constitutionality and legality. But in other countries one can have special laws through which the executive organs are checked for the constitutionality and legality of their regulations, decisions and acts. For instance, in the U.S.A there is Administrative Procedure Act (APA). So for example, this APA provides the minimal statutory safeguards for the protection of fundamental rights of individuals in the trial conducted by the administrative agencies. Additionally the procedure through which the USA executive organ and their administrative agencies enact laws, like regulations and directives are also clearly specified. Plus at the end of the day there is a judicial review process in which all the constitutionality of the acts and decisions of the other two organs (legislature and executive) are reviewed for their constitutionality by the ordinary court of laws. The other countries have their own mechanisms and laws through which they control their executive in order to ensure human right center sustainable development; but it is not possible to explain here.

But Ethiopia lacks such types of laws through which the laws enacted by the executive (regulations and directive) as per Article (77 (13)) of the FDRE Constitution, and their administrative decisions by different tribunals as per Article 37 of the same constitution are checked or reviewed for their constitutionality or legality. The draft administrative procedural law enacted in 2001

remains at the stage of a draft till today, without getting approval of the parliament. Hence, while codified and enforced laws are not enacted by the parliament in order to control the executive organs in their administrative rule makings, decisions, and actions, it is too difficult to prevent the executive from eroding the constitutional guarantees recognized in support of human rights and sustainable development.

Secondly, the parliamentary system itself has its own inherent demerits in relation to the principles of separation of powers. As the nature of the parliamentary system everywhere, including the UK executive and parliaments are sitting together in parliament. Even the prime minister shall be elected from the parliament (Ibid, Article 73(1)). Simply the principle of check and balance is loose in parliamentary systems, unlike in the presidential system of government where the executive and parliament or congress is completely separated. Therefore, there is no truly independent body to oppose and to vote against legislations passed by the parliament and so that, no substantial check on legislative power disrupts the balance of power. That means, the executive (the Council of Ministers) and the members of the parliament (the Legislature) is one and the same or the different faces of the same coin; since Ethiopia has a parliamentarian form of government in its government system. In other words, (lack of the inherent separation of powers places too much power in the executive. Hence, in addition to lack of the laws the absence of check and balance between the executive and parliament is another problem which may hold back the human right centered sustainable development. Since, if the parliament enacts some laws which erode these constitutional guarantees, the executive cannot oppose as they are working hand in hand in reality.

Thirdly, strong watchdog institutions like Human Rights Commissions and Institutions of the Ombudsman are not established and practicing their duties, even though, they are recognized under the constitution. These institutions (like Human Rights Commissions, Office of the Ombudsman, and others) investigate and reports the human rights violations and maladministration

taken place by the executive organ for the concerned organs like HPR and International human rights institutions (Proclamation No.210/2000 and Proclamation 211/2000).

However, these institutions are not functioning in the best manner, they are too fragile. They are only working in big cities like Addis Ababa and Dire Dawa. Consequently, it is very difficult to conclude that these institutions are putting pressure on the executive organs in case they violate the constitutional guarantees on human rights and sustainable development issues. For this reason, the lack of efficient and effective watchdog institutions to prevent the executive organs from abusing and acting beyond the powers given puts the issues of ensuring human rights-centered sustainable development under question.

Fourthly, lack of strong multi-party system is another challenge in ensuring human rights-centered sustainable development. Of course, currently more than 30 different opposition parties are preparing themselves for the nearest election in the future. But none of these opposition parties are strong enough to challenge the ruling parties. They do not come up with policy alternatives on political and socio-economic matters. So the competition will be very insignificant. As a result, this election will not contribute a lot to strengthen the human rights-centered sustainable development as even almost all of the opposition parties have not better policies on the affairs of human rights-centered sustainable development when compared with the ruling party. As a conclusion all these challenges explained hereinabove will retard human rights-centered sustainable development.

Establishing Independent and Impartial Judiciary

In order to ensure constitutionalism, having constitutional text with its democratic elements does not suffice, unless it is backed by impartial and independent tribunal which is empowered to adjudicate constitutional issues and umpire the Ethiopian federation. Therefore, through tribunal that interprets and adjudicates constitutional issues, federal systems have been able to promote legal integration (Mauro, 1989). Hence, to

litigate the disputes raised in connection with human rights-centered sustainable development, it necessitates independent and impartial tribunal that adjudicates constitutionality issues. However, the mere facts of having these guarantees under the text of the constitution without having genuine and impartial tribunal that umpires disputes arise in relation to human rights-centered sustainable development, does not have any importance to advance and practicing human rights-centered sustainable development in certain countries.

Accordingly, the FDRE Constitution established an independent judiciary as per its Article 78. Additionally, 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 (FDRE Constitution, 1995: Article 37). However, the challenge is that the FDRE Constitution puts the power to adjudicate constitutionality issues in the hand of the House of Federation (Ibid, Article 62 and 84). So if any interested parties claimed about the violation of certain constitutional guarantees, including the right to have human rights based sustainable development, it must be submitted to the HF not to the ordinary courts as per Article (84 (2)) of the FDRE Constitution. So, adjudicating and settling any disputes related to human rights and sustainable development is out of the ordinary courts' jurisdiction.

The acts of empowering the HF to adjudicate all constitutionality issues in general and violation cases in connection to human rights-centered sustainable development in particular may discourage the ongoing tackling for ensuring human rights-centered sustainable development on the other sides. The main problem is these socio-economic rights are not justiciable, i.e. One cannot bring to the court of law to enforce them directly. You cannot claim these rights (the right to have sustainable development) against the government in front of court of law in concrete manner. For instance, the right to health, shelter and food are guaranteed; as well as the right to sustainable development, the right to labor, and the right to have a safe environment, the right to education and the like are granted under the FDRE Constitution. However, if the government's

laws, actions and decisions, violate these constitutional guarantees we must bring this case to the HF not to the ordinary court. This may delay justice; and so that delayed justice is denied, as a result, it is very challenging to enforce these constitutional rights. On the other hand the HF is not accessible easily as the ordinary courts and it may take a year to solve the issues. Furthermore, the impartiality of HF is also contested as the state councils (regional parliament) elect their members (Ibid, Article 61 (3)). Many scholars' contests the HF as a political organ since the organ that elects its member is from the ruling parties of the regional states (Fisseha, 2006). Consequently, all these challenges may delay the advancement of human rights-centered sustainable development under the current Ethiopian federation though it is recognized under the constitution.

As clearly explained in the above discussions, the three wings of government (the executive organ, the legislative organ and the judicial organ) are under duty to enforce these constitutional guarantees, as listed from Article 14-44 of the 1995 FDRE Constitution; which support human rights-centered sustainable development in the Ethiopian federation (FDRE Constitution, 1995:, Article 13 (1)). Nevertheless, the power to adjudicate constitutionality issues in general and human rights based development in particular are vested in the hand of HF, rather than the ordinary courts. So the way the ordinary judiciary enforces all constitutional guarantees in relation to human rights-centered sustainable development, if they are excluded from adjudicating the same case is remain a paradox under the current Ethiopian legal system. Hence, the act of excluding courts from adjudicating human rights-centered sustainable development and making these constitutional guarantees non-justiciable is challenging to entrench the culture of human rights based sustainable development.

CONCLUSIONS AND RECOMMENDATIONS

The international human rights framework reflects a multi-dimensional conception of human dignity and well-being, and recognizes the practical indivisibility of all human rights as socially and

legally guaranteed entitlements (CESR | Center for Economic and Social Rights, 2013). The human rights of a civil and political nature such as freedom of speech and association, equality before the law, and the rights to life and physical security, depend on and mutually-reinforced by the human rights of an economic and social character such as education, food, health, water, sanitation, social protection, an adequate standard of living, decent work, a healthy environment and the right to development (Ibid).

Therefore, the cornerstone for ensuring sustainable development is all about protecting, enforcing and fulfilling human rights. As a result human rights and socio-economic rights are indivisible, for this reason, the states must ensure the human rights-centered sustainable development. Otherwise, the mere facts of increasing material accumulation like securing high levels) of GDP without giving due respect to the political and civil rights (human rights) of the nations is not as such considered as sustainable development.

Accordingly, the FDRE Constitution recognizes the indivisibility of human rights and socio-economic rights and put them under the same status, and named them as fundamental rights and freedoms under its chapter three. Furthermore, it imposes serious duties on the three wings of government. Pursuant to its Article (13 (1)), all federal and state legislative, executive and judicial organs at all levels shall have the responsibility and duty to respect and enforce the provisions of this of chapter three which deals with the concept of human rights based sustainable development. Moreover, Ethiopia ratified various international human rights treaties to strengthen human rights-centered sustainable development.

Despite all these opportunities to strengthen human rights-centered sustainable development, there are varieties of challenges, which hinder ensuring human right centered sustainable development under the Ethiopian federation. Some of the challenges include; the parliaments are not careful enough in enacting favorable laws, which support human rights, centered sustainable development. Sometimes laws are incompatible, confusing and not go according to the spirits of the

constitution to ensure human rights-centered sustainable development. In addition to this, laws frequently change from time to time and this may have negative impacts on the trustworthiness of the legal system itself. Next, treaties are not domesticated according to the national laws. For instance, treaties are not translated in the national language and promulgated on Negarit Gazeta and this may have problem to use these treaties. This may affect human rights-centered sustainable development since the socio-economic rights of the citizens, investors and company owners are not as such guaranteed. Lack of compressively and strong institutions to enforce and to supervise the human right centered sustainable development. The democratic institutions established to protect the same rights like human rights commissions and ombudsman are very fragile. On the other hand, there are not codified and enforced laws through which we can prevent the executive organ from abusing their power given and stop them from acting beyond their power given. Plus there is no strong multi-party system which will bring new policies and strategies through which this human rights-centered sustainable development will be booming. Additionally, the way in which ordinary judiciaries enforce these constitutional rights are highly wiped out both under the constitution and other laws; since the judiciary is excluded from adjudicating the constitutionality issues in general and human rights based sustainable development in particular.

To sum up this discussion, the FDRE Constitution guarantees human right, centered sustainable development in an interesting manner. But there are legal and practical challenges which retard the implementation and practicing of human right, centered sustainable development under the federalist state of Ethiopia. Hence, human rights and developments are the different faces of the same coin; so that, to ensure sustainable development the Ethiopian government must confirm that any acts which promotes development shall put the human rights principles at its center.

As recommendations for policy makers, the following points must be considered: Accordingly,

Parliaments at both states and federal levels must be careful in enough, not to enact a law which contradicts with the spirits of human rights-centered sustainable development. International treaties in support of human rights-centered sustainable development must be domesticated considerably. Genuine and strong institutions to supervise the implementation of human rights-centered sustainable development like the Human Rights Commission and Office of the Ombudsman must be established. Strong multi-party system should be established to have policy options to strengthen the culture of human rights-centered sustainable development more and more. Comprehensive procedural laws to review the actions, inactions and decision about executive organ in implementing human rights-centered sustainable development shall be entrenched and impartial and independent judiciaries must be created both at federal and regional levels.

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