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# DISPLACEMENT FROM LAND AS A LIMIT TO THE REALISATION OF THE RIGHT TO DEVELOPMENT IN ETHIOPIA

## SUMMARY

Land remains a valuable asset to the Ethiopian rural population that constitutes approximately 85 per cent of the total population. Land and development are inextricably intertwined in developing agricultural economies such as Ethiopia and the majority of other African countries. Any meaningful social, economic and cultural development or self-determination of the people depends on how land is protected, guarded and defended by those who wield government powers. The state assumes, under human rights law, an obligation to respect land and other property rights and to prevent violations of the people's rights by third parties and against property dispossession during internal conflicts. While the past few months have seen rapid and complex new developments – literally transforming the landscape of Ethiopian politics – these developments also bring certain dangers. Prominent among these are the large-scale internal conflicts and major population displacements that have caused appalling suffering to hundreds of thousands of Amhara and Oromo people and other ethnic groups. It is over three-and-a-half decades since the right to development gained universal recognition as an inalienable human right. The Vienna Declaration and Programme of Action adopted in 1993 firmly underlines the universal recognition of the right to development. The right to development has also gained domestic recognition in many African countries, including Ethiopia, where it is explicitly enshrined in the *Federal Constitution* as one of the fundamental rights. Using available literature, this article examines the implications of displacement from land and investigates its impacts on the non-realisation of the right to development by inquiring how displacement and the human right to development are being pursued in Ethiopia. Considering the continued displacement from their lands and the implications for the right to self-determination of the various ethnic groups over their property, the article advances the argument that, without a strict adherence to land rights, the 2063 and 2030 agendas for sustainable development would fail to achieve their purpose in making living standards better for the vast majority of the people of Ethiopia.



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## 1. INTRODUCTION

As a country with a history of over 3,000 years, Ethiopia has passed through various political leadership and administrative systems, each with its own strengths and weaknesses. Among the political administrations that are known to have 'negatively' impacted on the lives of Ethiopians are the previous *Dergue* regime that remained in power for seventeen years until 1991, as well as its successor the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF)-led government that has been in power for the past 28 years. The EPRDF regime introduced a policy of ethnic 'federalism' under the 1994 *Constitution*. The *Constitution* divided the country into nine ethnic regions and two federally administered cities.<sup>1</sup> Following the adoption of the *Constitution*, the rights to land, employment and higher education have been determined by ethnic identity, and lessons in schools taught in ethnic dialects. Accordingly, while tribal loyalties have been strengthened, divisions have been aggravated. In addition, national unity, which was already fragile, has further weakened.<sup>2</sup> The ethnic federal state structure confers sovereign powers on ethnic groups, allowing the ethnic majority group to control and use government apparatus within their respective regional states to the benefit of their members, while discriminating against minorities.

Rooted in ethnic divisions in the social, economic and political spheres, Ethiopia is becoming a rich ground for extremism, tribalism, and intolerance.<sup>3</sup> These have resulted in politically motivated inter-ethnic clashes, resulting in a considerable number of internal displacements of over three million people countrywide. Recently, this figure has made Ethiopia the first country in the world to have such a degree of displacement, even when compared with Syria and Yemen.<sup>4</sup> Such displacement has led to communities, families, households and individuals fleeing their lands and homes; and witnessing killings, families being torn apart, health complications, dropouts from school, loss of jobs, and properties burnt and destroyed. Many of the local populations have become beggars, regardless of the fact that they were a major supplier of agricultural products and animals. The forceful displacement of this large number of people deprives them of control over the land and other properties, upon which they depend for livelihood and survival. As a result, the internally displaced

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1 The nine regional states are Tigray, Afar, Amhara, Oromiya, Somali, Benishangul-Gumuz, Southern Nations, Nationalities and Peoples, Gambela, and Harari. The two city administrations are Addis Ababa and Dire Dawa Administration Councils. See *Constitution of the Federal Democratic Republic of Ethiopia* 1995: arts. 47(1) and 49(2).

2 Graham 'Displacement and ethnic conflict in new Ethiopia'. <https://www.counterpunch.org/2019/03/15/displacement-and-ethnic-conflict-in-new-ethiopia/> (accessed on 14 July 2019).

3 Graham 'Displacement and ethnic conflict in new Ethiopia'. <https://www.counterpunch.org/2019/03/15/displacement-and-ethnic-conflict-in-new-ethiopia/> (accessed on 14 July 2019).

4 The Internal Displacement Monitoring Centre (IDMC) 2019:6; Cristiano 'Ethiopia needs to act fast to solve its internal displacement problem'. <https://reliefweb.int/report/ethiopia/ethiopia-needs-act-fast-solve-its-internal-displacement-problem> (accessed on 4 August 2019).

people (IDPs) are forced to relocate to other areas within the country, where conditions are often contrary to their specific cultures.

Existing international,<sup>5</sup> regional<sup>6</sup> and domestic legislation of some African countries,<sup>7</sup> including the Ethiopian Federal *Constitution* explicitly recognises the basic rights of peoples to development. The Vienna Declaration and Programme of Action adopted in 1993 firmly underlines the universal recognition of the right to development. Furthermore, the right to development has successfully been enforced through litigation in Africa.<sup>8</sup> The right to development embodies the right to self-determination and sovereignty over natural resources. In this regard, the UN Declaration on the Right to Development provides that:

the human right to development also implies the full realisation of the right of peoples to self-determination, which includes, ... the exercise of their inalienable *right to full sovereignty over all their natural wealth and resources*.<sup>9</sup>

Land is an important natural resource for the realisation of the right to development and other human rights. As such, peaceful possession and enjoyment of land should be guarded and defended by both governmental authorities and individuals and thus imposes an obligation to refrain from any encroachment on the enjoyment of land rights. States have the responsibility to take steps to eliminate obstacles to development resulting from failure to observe human rights of individuals and groups.<sup>10</sup> As was interpreted in the *Endorois* case, a state is enjoined to create conditions favourable to peoples' development.<sup>11</sup> The forceful denial of use of land implies a limit on the realisation of the right of peoples to development.

This article aims to examine the recent phenomena of forced displacements from land in Ethiopia and their impact on the realisation of the basic right to development enshrined in international instruments as well as the domestic law of the country. While a fair number of written works are emerging regarding

5 See, for instance, United Nations Declaration on the Right to Development 1986:art. 1(2).

6 See, for instance, African Charter on Human and Peoples' Rights 1981:art. 22; African Youth Charter, adopted in Banjul 2006:art. 10; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003:art. 19.

7 See, for instance, *Constitution of the Democratic Republic of the Congo* (DRC) 1996:art. 58; *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 43; *Constitution of the Republic of Benin* 1990: art. 7; *Constitution of the Republic of Malawi* 1994:art. 30.

8 See, for instance, *African Commission on Human and Peoples' Rights (Ogiek Community) v Republic of Kenya* (2017) Appl 006/2017:paras. 201-217; *Centre for Minority Rights Development (Kenya) & Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2009) AHRLR 75 (ACHPR 2009):paras. 269-298 (also referred to below as "the *Endorois* case"); *Democratic Republic of Congo v Burundi, Rwanda and Uganda* (2009) AHRLR 9 (ACHPR 2009):par. 95.

9 United Nations Declaration on the Right to Development 1986:art. 1(2) (emphasis added).

10 United Nations Declaration on the Right to Development 1986:art. 6(3).

11 *Centre for Minority Rights Development & Others v Kenya*:par. 29.

the right to development in general – and in the context of Ethiopia in particular – there is a dearth of research describing and analysing the situation of forced internal displacement and its impact on development as a human right and, more so, research in this regard that focuses specifically on Ethiopia.

The article proceeds as follows: subsequent to this introductory section, the second section conceptualises the link between land as a natural resource and development. In the third section, the article examines the right to development and the place of land in international and regional human rights instruments in relation to the realisation of this right, as well as the obligation of states towards the right to development. The section also discusses Ethiopian laws and policies governing the right to development and the obligations they entail for its realisation. Section four focuses on a situational analysis of forced displacements from land in Ethiopia and how this affects the realisation of the right to development of the displaced persons. Section five contains concluding observations.

## 2. LAND AND DEVELOPMENT: THE LINK

Neither the African Charter on Human and Peoples' Rights ("the African Charter") nor the United Nations Declaration on the Right to Development (UNDRD) explicitly incorporates the word "land" as a contributing factor to the realisation of the right to development. This is, however, implied in the provisions of these instruments. According to available literature, the word "land" embraces all that nature has created on the earth, above the earth, and below the earth's surface".<sup>12</sup> As such, land is a resource given by nature. Everything that we use can be traced ultimately to land. The importance of land as a basic natural resource is implicit in the Declaration, which provides that:

States should undertake, at the national level, all necessary measures for the realisation of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.<sup>13</sup>

"Development", on the other hand, encompasses the need and the means to provide better living standards, particularly for people in poor countries. It includes not only economic growth, although that is crucial, but also human development expressed in various forms such as providing for health, nutrition, education, and a clean environment.<sup>14</sup> "Development" is thus a broad concept that entails social, economic, political and human development. This understanding of the word "development" is captured under the African Charter and the UNDRD.

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12 Tushar 'Land: Meaning, importance and other details'. <http://www.economicdiscussion.net/articles/land-meaning-importance-and-other-details/1519> (accessed on 23 Aug 2019).

13 United Nations Declaration on the Right to Development 1986:art. 8(1).

14 Globalisation 101 'Introduction: What is development'. <https://www.globalization101.org/introduction-what-is-development-2/> (accessed on 30 June 2019).

Not more than a few years ago, the African Union (AU) stressed that agriculture and land are central for the social and economic development of the continent.<sup>15</sup> Land is crucial for the participation of all peoples, including the disadvantaged sections of society. Displacement from land perpetuates poverty and marginalisation. A restriction on access to land violates a community's right to development. Land is thus at the heart of development.

The jurisprudential potency of the importance of land for the realisation of the right to development was emphasised in the *Endorois* case.<sup>16</sup> The Endorois are a community of approximately 60,000 people who have, for centuries, lived around Lake Bogoria in the Rift Valley, Kenya. In 1978, the government of Kenya created the Lake Bogoria Game Reserve, which led to the eviction of the Endorois from their traditional lands and grazing pastures. This measure resulted in the death of large numbers of cattle, which constitutes the community's source of livelihood. Land also allowed the Endorois people to practise their culture. The case was brought before the African Commission on Human and Peoples' Rights against the Kenyan government questioning the legality of its actions against the Endorois. Making reference to relevant international and regional laws, the Commission found that the way in which the Endorois had been dispossessed of their traditional lands, and denied access to resources, constituted a violation of their right to development. Consultations by the government had been inadequate and the free, prior and informed consent of the Endorois in appropriating their land and relocating them to another part of Kenya had not been obtained. The Commission noted that "the failure to provide adequate compensation and benefits or provide suitable land for grazing indicates that the Respondent State did not adequately provide for the Endorois in the development process".<sup>17</sup>

Strong, properly enforced land rights can boost growth, reduce poverty, strengthen human capital, promote economic fairness (including gender equity), and support social progress more broadly. However, land is not only a means of production or something to possess. Land is also "to be cherished, preserved, and responsibly enjoyed by present and future generations as an intrinsic part of Africans' social, economic, political and spiritual being".<sup>18</sup> This implies that any meaningful social, economic and cultural development or self-determination of the peoples depends on how land is protected, guarded and defended by those who wield government powers. The *Endorois* case clearly illustrates how peoples' livelihood and culture is attached to land.

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15 African Charter on Human and Peoples' Rights 1981:art. 22.

16 *Centre for Minority Rights Development & Others v Kenya*.

17 United Nations Office of the High Commissioner for Human Rights 2016:9.

18 Robert 2018:162.

### 3. THE RIGHT TO DEVELOPMENT IN RELATION TO LAND

#### 3.1 The right to development under international law

The origin of the idea of the right to development can be traced back to the ideological debates of the 1960s and 1970s.<sup>19</sup> The debate had been between the developing and the developed countries as to whether development should be treated as a justiciable human right. After several controversies, development was increasingly granted legal recognition as an inalienable human right. This implies that, like all human rights, the right to development belongs to everyone individually and collectively without discrimination and with their participation. The African Charter is the first international human rights instrument to recognise the right to development as a distinct right. The Charter obligates all member states to take joint and separate action in cooperation for the realisation of the right to economic, social and cultural development.<sup>20</sup> The Preamble to the Charter also affirms the commitment of member states to “intensify their cooperation and efforts to achieve a better life for the peoples of Africa”.<sup>21</sup> To date, the Charter is the most definitive codification of the right to development. The text of the Charter recognises the right to development in the following terms:<sup>22</sup>

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

States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

From a reading of the above provision of the Charter, it is worth noting that there is no in-depth definition of what the right to development constitutes. However, three distinctive features of development resonate from the text. The first is economic development – the Charter is clear on the fact that the economic capabilities of peoples in a state must be improved. A measurement of the extent of a state’s realisation of the economic component of this right may be drawn from a critical analysis of the adequacy in the standard of living of the peoples in the state. In this connection, the right to development combines existing rights, such as the right to an adequate standard of living, the right to work and of participation.<sup>23</sup> The right to development incorporates all human rights in an integrated manner as part of a development programme. It is a human right on a par with all other human rights.

Development cannot, however, be viewed only from the perspective of economic growth. The second dimension of development is its social aspect. The notion of social development echoes from the right to social security, encompassing access to social services and the well-being of the peoples that make up a society. The goals and objectives of social development require

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19 Ngang 2018:108-112; Jacobus 2006:89.

20 African Charter on Human and Peoples’ Rights 1981:art. 22(2).

21 African Charter on Human and Peoples’ Rights 1981:preamble.

22 African Charter on Human and Peoples’ Rights 1981:art. 22.

23 Romola 2018:37-38.

continuous efforts. They impose an obligation to reduce and eliminate major sources of social distress and instability for the family and for society caused by factors including “corruption”, “intolerance and incitement to racial, ethnic, religious and other hatreds”, and “xenophobia”.<sup>24</sup>

The right to development also has a cultural dimension. Cultural development encompasses “cultural growth, the fostering of respect for all cultures and for the principle of cultural freedom”.<sup>25</sup> The right to cultural development envisages the expression of a way of life, which is especially important for certain categories of peoples.<sup>26</sup> The importance of this dimension is stressed in the *Sesana* case, where the High Court of Botswana condemned the state’s notion of development without reference to the culture of indigenous peoples as a yardstick for advancing protection.<sup>27</sup> In its decision, the Court underscored the fact that it is imperative for the state, when dealing with indigenous peoples, to protect their culture.

At the UN level, on 4 December 1986, the UN General Assembly adopted the UN Declaration on the Right to Development, which acknowledges that the right to development is both an individual and a collective right.<sup>28</sup> As is the case with the African Charter, the right to development enshrined in the Declaration on the Right to Development contains specific entitlements, including the right “to participate in, contribute to, and enjoy economic, social, cultural and political development”.<sup>29</sup> Furthermore, the Declaration sets out the constituent elements of the right to development as well as the means for its realisation. Important for the purpose of this article, the Declaration requires the full realisation of the right of peoples to self-determination, which includes the right to assert full sovereignty over their natural wealth and resources.<sup>30</sup> Land is a natural resource or wealth and as such is an important ingredient for the right to development, as well as a means for its realisation.

In modern times, Ethiopia’s economic, social, and political questions are shaped by issues of development and respect for human rights and fundamental freedoms. The failure to achieve the goals of development and respect for human rights and fundamental freedoms has been a source of internal conflicts, eruption of political forces, and change of regimes. Recurring drought and famine have also left millions of Ethiopians suffering from hunger, leading to a heavy death toll. The right to development is essential to end the cycles of famine and to eradicate poverty in the country. Accordingly, in undertaking to advance economic and social development, the Ethiopian federal *Constitution* envisages the emancipation of the poor from impoverished

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24 Declaration on Social Development and Programme of Action (Annex I), adopted at the 14<sup>th</sup> Plenary Meeting of the World Summit for Social Development, Copenhagen, Denmark, UN Doc A/CONF. 166/9 6-12 March 1995:par. 20.

25 World Commission on Culture and Development 1996:14.

26 See, for instance, *Centre for Minority Rights Development & Others v Kenya*.

27 *Sesana & Others v Attorney-General* (2006) AHRLR 183 (BwHC 2006):par. 206(a).

28 See United Nations Declaration on the Right to Development, Resolution A/RES/41/128, adopted by the General Assembly on 4 December 1986.

29 UN Declaration on the Right to Development 1986:art. 1(1).

30 UN Declaration on the Right to Development 1986:art. 1(2).

lives by ensuring access to food, healthcare and economic opportunities. The *Constitution's* chapter on national policy principles and objectives clearly stipulates that, subject to the availability of resources, “policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security”.<sup>31</sup> More broadly, it also recognises and guarantees socio-economic rights in the chapter dealing with fundamental rights and freedoms.<sup>32</sup> The *Constitution* also clearly states that the realisation of its democratic and development objectives is conditioned on the full respect of human rights and fundamental freedoms of individuals and groups, and the principles of equality and non-discrimination.<sup>33</sup>

### 3.2 The right to development in the Ethiopian federal Constitution

Although not similarly worded as the UNDRD or the African Charter, for which Ethiopia has voted and to which the country has acceded, the Ethiopian federal *Constitution* dedicates an article on the right to development. In explicitly proclaiming the right to development, the *Constitution* enshrines the right to improved living standards and the right to sustainable development.<sup>34</sup> Art. 43(2) of the Ethiopian federal *Constitution* 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”. While it is clear what the phrases “improved living standards”, “sustainable development” and “participate” refer to, there is a need to find an appropriate meaning for these phrases from the existing literature, in order to understand the content of the right under the *Constitution*.

The meaning of the first phrase – “improved standard of living” – could depend on a particular context. In its broader sense, living standard refers to the level of human development, which represents achievement in life expectancy, infant survival, adult literacy, and material well-being.<sup>35</sup> In the context of developing countries, standard of living is identified with the minimum level of income or consumption necessary for living above the income poverty line and is essentially associated with the assessment of poverty.<sup>36</sup> In Ethiopia, the concept of living standards is understood broadly to include both material and non-material well-being.<sup>37</sup> This is subject to the Households Income, Consumption and Expenditure Survey (HICES) and the Welfare Monitoring Survey, which measure income and non-income dimensions of poverty, respectively.<sup>38</sup> However, none of the conceptions regarding standard of living is viewed from a rights-based perspective. A rights-based account of standard of living under art. 43 of the Ethiopian

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31 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art 90.

32 Chapter 3 of the *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 41.

33 See, for instance, *Constitution of the Federal Democratic Republic of Ethiopia* 1995:arts. 89 (2), (6) and (7).

34 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 43.

35 Berenger & Verdier-Chouchane 2007:1260.

36 Easterlin 2000:7; Sen 1985:36-42.

37 FDRE Central Statistics Authority 2004:3.

38 FDRE Central Statistics Authority 2004:3.

federal *Constitution* is best understood if construed in conformity with the UN Declaration. A human rights-based approach to improving standard of living involves eradicating multidimensional poverty, including undernourishment, premature death, illiteracy, unemployment, and social exclusion, in addition to addressing shortfalls of income. This requires ensuring rights-based access to basic resources, education, health services, food, housing, and employment.<sup>39</sup>

The other component of the right to development under the Ethiopian federal *Constitution* is the phrase “sustainable development” or in the Amharic or original version of the *Constitution*, the right to an “uninterrupted growth”. According to the Brundtland Report, sustainable development is understood as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” and that it must comply with the imperatives of environmental protection.<sup>40</sup> Sustainable development can thus be understood as a process of economic growth that complies with the imperatives of environmental protection and is consistent with the principles of social justice and human rights. The interpretation affirms the connection between development, the environment, and human well-being. This relationship is mirrored in the relevant provisions of the Ethiopian federal *Constitution*. For instance, the section of the *Constitution* on national policy principles and objectives clearly states that “[t]he design and implementation of programs and projects of development shall not damage or destroy the environment”.<sup>41</sup> This implies that the right to sustainable development should be construed in accordance with the national environmental policy principle and objectives, which prohibit formulating and implementing development programmes and projects that may damage or destroy the environment.

The third element that deserves conceptual explanation for a meaningful understanding of the elements of the right to development under the Ethiopian federal *Constitution* is the right to “participate”. The *Constitution* confers, on the Ethiopian peoples, the right to participate in the national development processes. This is contained in art. 89(6), where mention is made that the “[g]overnment shall at all times promote the participation of the People in the formulation of national development policies and programmes”. This presents an opportunity for nationals to participate in the debates on development by expressing their approval, disapproval, or critique of proposed national development policies in a public forum organised for the purpose. This is considered a top-down process of development. The bottom-up dimension, where nationals can participate in national development, is by directly initiating development programmes with hardly any or no support from the state. Examples of self-initiated participation in development using own resources for the benefit of the communities include the building of schools, health centres and roads.

Furthermore, the right of peoples to participate in development also implies the right of citizens to be consulted about specific development policies and

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39 United Nations Office of the High Commissioner for Human Rights 2006:4.

40 Cordonnier-Segger & Khalfan 2004:11.

41 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 92(2).

projects affecting their community.<sup>42</sup> The right to be consulted is available only to those nationals whose community or interest is likely to be affected by the implementation of particular development policies or projects. Examples in this category could be women and children. Regarding women, the *Constitution* stipulates that “[w]omen 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”.<sup>43</sup>

Another sphere of the right of peoples to participate in development is that participation should be active, free<sup>44</sup> and meaningful.<sup>45</sup> While these elements are conceived under the UNDRD and the African Commission’s interpretation of the African Charter,<sup>46</sup> the Ethiopian *Constitution* is silent on the same issue. As the Ethiopian government accepts the UN Declaration and the mandate of the African Commission, participation must be understood to mean active, free and meaningful.

### 3.3 Obligations on the right to development

A textual reading of both the UNDRD and the African Charter places a duty on the state to ensure the achievement of the right to development. More specifically, art. 22(2) of the African Charter imposes the duty on state parties to ensure the exercise of the right to development, implying the state-centric model of development. It requires states to allocate resources and the establishment of state institutions and policies that advance the realisation of economic, social and cultural rights in the pursuit of human development.

However, lack of adequate resources and the establishment of appropriate mechanisms may limit the realisation of the right to development. In this sense, the Charter obliges states to cooperate with one another to ensure the realisation of the right to development. The need for cooperation between African states is reflected in Agenda 2063 of the African Union, which calls on African states to unite in order to realise the continent’s renaissance, and drive the objectives of Agenda 2063 to advance Africa’s interests.<sup>47</sup> Agenda 2063 seeks to achieve a prosperous Africa based on inclusive growth and sustainable development; an integrated and politically united continent driven

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42 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 43(2).

43 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 35(5).

44 “Active and free participation” connotes an informed participation that depends on the empowerment of the people to effectively take part in the formulation and implementation of development policies.

45 Participation is meaningful in the sense that it must be as inclusive or representative as possible, by involving all those who would be affected by the development process, especially, the poor and other marginalized groups.

46 *Centre for Minority Rights Development & Others v Kenya*: paras. 289-291. The African Charter does not clearly stipulate the right to active, free and meaningful participation as an ingredient element of the right to development. However, the African Commission, in its decision on the *Endorois* case, has interpreted the right to development as enshrined in art. 22 of the African Charter to include the right to active, free and meaningful participation in development.

47 The African Union Commission 2015:11-12.

by the ideals of pan-Africanism, respect for good governance, democracy, human rights, justice and the rule of law; peace and security on the continent; shared values and ethics, a strong cultural identity and common heritage; development that is people-driven, relying on unlocking the potential of the African people, especially women and the youth, and caring for children; while presenting Africa as a strong, united and influential global partner in the international arena.<sup>48</sup>

The UN Declaration imposes an obligation on various actors as duty bearers for the right to development. It imposes duties on states and the international community as well as on those whose actions and/or omissions have an impact on human rights and on the environment in which these rights are to be fulfilled.<sup>49</sup> States have the primary responsibility to respect, protect and fulfil human rights. This entails creating national and international conditions favourable for the realisation of the right to development.<sup>50</sup> This means that they have the duty to create an enabling environment for equitable development, both locally and globally. States also have the duty to formulate appropriate national development policies aimed at the constant improvement of the well-being of the entire population and of all individuals.<sup>51</sup> States are further required to collaborate with a view to strengthening human rights, ensuring development, and eliminating the obstacles that hinder development, with which they must comply in such a manner as to promote a new international economic order based on sovereign equality, interdependence and mutual interests.<sup>52</sup>

States thus have obligations at three levels: internally, through the formulation of national development policies and programmes affecting persons within their jurisdictions; internationally, through the adoption and implementation of policies extending beyond their jurisdictions; and collectively, through global and regional partnerships. In terms of the UNDRD:

all human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms, as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being [...]<sup>53</sup>

As such, all human beings should be active participants in development and have a duty, individually and collectively, “to promote and protect an appropriate political, social and economic order for development”.<sup>54</sup>

Although the UNDRD does not explicitly refer to the private sector and other non-state actors, the general obligation on states to respect, protect and fulfil human rights applies to all human rights, including the right to development. The obligation to protect implies that the state should protect

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48 The African Union Commission 2015:11-12.

49 United Nations Office of the High Commissioner for Human Rights 2016:3-4.

50 UN Declaration on the Right to Development 1986:art. 3(1).

51 UN Declaration on the Right to Development 1986:art. 2(3).

52 UN Declaration on the Right to Development 1986:art. 3(3).

53 UN Declaration on the Right to Development 1986:art. 2(2).

54 UN Declaration on the Right to Development 1986:art. 2(2).

individuals and groups against violations of their human rights by third parties. The responsibility for development and the duties towards the community, which the UNDRD places on all human beings, entail that such responsibilities are shared by all relevant actors and organs of society, including the private sector and civil society. According to the UN Guiding Principles on Business and Human Rights, businesses have a responsibility to respect all human rights including the right to development. Furthermore, the responsibility under the Declaration to promote and to protect an appropriate political, social and economic order for development applies to all human beings, including in their role as non-state actors. Accordingly, private actors should also contribute to creating conditions favourable to the realisation of the right to development.<sup>55</sup>

The right to development provides the means to hold states accountable and depends a great deal on how land is secured, used and managed, requiring appropriate land laws and policies that bring tangible benefits to the peoples. Concerning duty bearers, art. 43 of the Ethiopian federal *Constitution* does not expressly mention upon whom the obligation to realise the right to development rests. However, art. 13(1) provides for a broad obligation to respect and enforce the fundamental rights and freedoms of the *Constitution*, which includes the right to development under art. 43. In general, all federal and state legislative, executive and judicial organs at all levels are obligated to respect and enforce the rights and freedoms, including the right to development and other generations of rights. It can be construed that the primary responsibility to ensure the realisation of this right falls on all organs of the federal and regional state governments at all levels.

The *Constitution* further imposes an obligation on the federal and state governments to formulate and implement development policies and strategies of the country and the states, respectively. In addition, the *Constitution* imposes other general obligations on every member of society and organs of government for all human rights incorporated therein. In this sense, the *Constitution* provides that “[a]ll citizens, organs of state, political organizations, other associations as well as their officials have the duty to ensure observance of the Constitution and to obey it”.<sup>56</sup>

The cumulative reading of the above paragraphs indicates that the state and its organs at all levels, individuals and other non-state actors can be viewed as duty bearers of the right to development and other human rights in Ethiopia.

## 4. IMPLICATIONS OF DISPLACEMENTS ON THE RIGHT TO DEVELOPMENT IN ETHIOPIA

### 4.1 Importance of land in Ethiopia

Land remains a principal invaluable asset to the Ethiopian rural population, which constitutes roughly 85 per cent of the total population. The issue of, and access to land are currently playing a major role in the life of Ethiopians.

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55 United Nations Office of the High Commissioner for Human Rights 2016:5.

56 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 9(2).

It is the most important natural resource and has strong ties with the people's identity aspects. For the populations living on the land, the latter is assumed to have symbolic meaning for their identity and is the basis for their economic, social and cultural existence.<sup>57</sup> Above all, land in Ethiopia is the most valuable natural resource on which the economic activities and livelihood of the people depend. Given that the vast majority of the Ethiopian population is agrarian, whose lifestyle therefore depends principally on agriculture, denial of access to land implies that their lives will be at risk. On top of the imperative for survival, access to land is an important factor in the endeavour to end poverty.<sup>58</sup> The main reason for this is that the culture and religious beliefs, socio-economic well-being, religious matters and political affairs of a people are strongly connected to land, which is viewed as a priceless resource for identity formation.

The Ethiopian federal *Constitution* declares that land is the common property of the nation, nationalities and peoples of Ethiopia.<sup>59</sup> This means that individuals cannot own land privately. The *Constitution* states that the right to own rural and urban land as well as natural resources belongs only to the state and the peoples as a collective. However, the local populations in Ethiopia have the right to obtain land without payment and to be protected against eviction from their possession.<sup>60</sup> Still, it is only where access to land, irrespective of how that might be defined under national law, either collective or private, has been guaranteed that a person may have a secure and peaceful place in which to live. Unless one has access to land, there is no doubt that one cannot secure a peaceful and dignified place for living.

Considering that land is the primary means for fulfilling the need for adequate housing, food, livelihood, work, self-determination, security of the person and sustenance of common property resources, the existence of Ethiopians is determined by the opportunity they have on their land. From the above discussion, it is understandable how crucial land is for the livelihood of the vast majority of Ethiopians. Accordingly, land in Ethiopia is a foundation for the economy, politics, culture, religion, and much more. Put differently, land for Ethiopians is a resource, whereby they can determine their destiny, and it is the only means for their development. Thus, displacement from land in Ethiopia has a devastating effect on the economic, social, cultural, political and psychological life and the right to development for IDPs.

## 4.2 Displacements in Ethiopia

Ethiopia is part of the "cradle of ancient civilization" and one of the African countries that was never colonised. It is a country built by the blood of gallant sons and daughters of Ethiopia over the years. However, this has not prevented the country from suffering ethnic conflicts and political instability, accompanied by social crises, including large-scale displacements. The number of internal displacements remains persistently high, with new displacements recorded in

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57 Usha 1996:1486-1491.

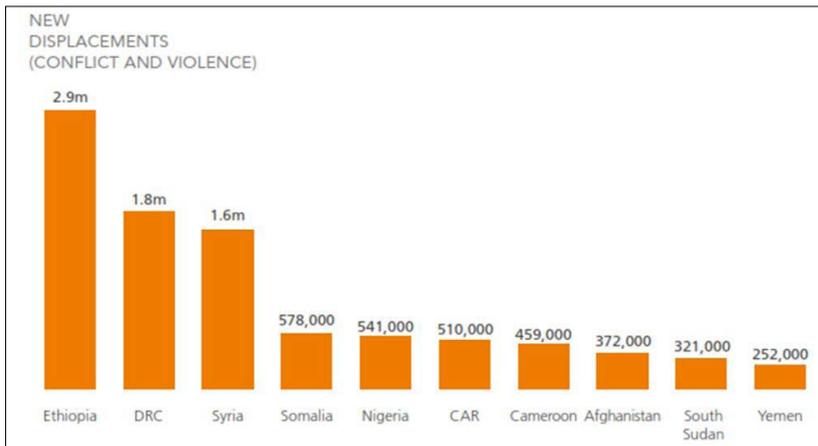
58 Montgomery 2007:156.

59 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 40(3).

60 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 40(4).

2017.<sup>61</sup> In recent years, Ethiopians have been subject to internal displacements for different reasons. Following the adoption of ethnic federalism and the re/structuring of the country into nine regional states and two self-administering cities, conflicts over land and natural resources have manifested across the country in the form of social unrests, wars, and ethnic violence.

The effect of the displacements is further exacerbated by the lack of a national policy on internal displacements and the Ethiopian government's failure to ratify or accede, domesticate and implement the Africa Union Kampala Convention (2009) in offering protection specifically tailored to the needs of IDPs. Coerced displacements and involuntary removal of individuals, groups and communities from their homes and/or lands and the common property resources they occupy or upon which they are dependent, has become a growing phenomenon in Ethiopia. In 2018, internal conflicts caused Ethiopia to become the country with the fastest growing internally displaced population in the world.<sup>62</sup> Displacement is "Ethiopia's neglected crisis". Over 80 percent (or nearly three million individuals) of the IDPs were displaced due to ethnic conflicts and inter-communal violence (see Figure 1) as opposed to 20 percent due to natural disasters.

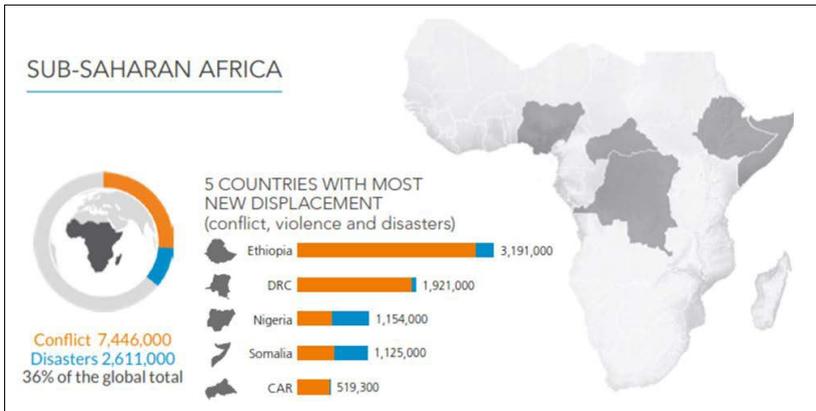


Source: Global Report on Internal Displacement (GRID) 2019

Figure 1: Ten countries with the most new displacements associated with conflict and violence in 2018

61 *European Civil Protection and Humanitarian Aid Operation/ECHO*, 21 January 2018.

62 *European Civil Protection and Humanitarian Aid Operation/ECHO*, 21 January 2018.



Source: GRID 2019

Figure 2: Conflict and violence: New displacements in the sub-Saharan region

Focusing on the situation of the Amhara ethnic group in Ethiopia, over the past 26 years, thousands of ethnic Amhara have forcefully been displaced from the Oromia Regional State, from different parts of the Southern Nation, Nationalities and Peoples Regional State (SNNPR), from the Amhara region itself, and from Benishangul Gumuz Regional States.<sup>63</sup> As the second highest ethnic group in the country, the Amhara live in different parts of Ethiopia. The forcible eviction of the Amhara or other ethnic groups in the country by expulsion from the lands or through other coercive acts is unlawful under both Ethiopian and international laws.

### 4.3 Implications of the displacements

Various aspects of the right to development have been discussed in the previous sections, with illustrations of its economic, social and cultural dimensions. This section focuses on the implication of forced internal displacement on the economic, social and cultural development of the affected communities. The first is its impact on economic development. As mentioned earlier, land is an indispensable natural resource in Ethiopia, and the life of Ethiopians is inextricably linked to their land. The vast majority of Ethiopians are agrarian, whose economic activities are closely associated with land. Hence, displacement results in loss of access to farmland, pastures, forest lands, grasslands, water bodies and burial grounds. This negatively impacts income and livelihood levels.<sup>64</sup> Displacement from land ultimately makes the lives of the peoples miserable and violates their right to utilise their land productively and to their exclusive interest.

63 Association for Human Rights in Ethiopia (AHRE) 'Ethiopia: Stop an ethnic-based displacement and evictions'. <https://ahrethio.org/2018/05/05/ethiopia-stop-an-ethnic-based-displacement-and-evictions/> (accessed on 22 July 2019).

64 Nandita 2009:78.

The Ethiopian federal *Constitution* enshrines the fact that every person has the right to work, which incorporates the right to use land for economic and other productive purposes. Hence, displacing people against their will is a violation of their constitutional right to work. The *Constitution* is expected to guarantee protection to the people. It states that every Ethiopian is entitled to have the right to engage in any economic activity and gain his living by work which he freely chooses.<sup>65</sup> Losing one's work automatically affects the source of income on which the families rely. In the absence of secured land to conduct agricultural activities, sustaining life and reducing poverty remain a huge problem. Put differently, land is life and displacement disrupts the livelihood of the people. In worst instances, the incidence of citizens' displacement from their land forces them to flee from their country and seek refugee status in other countries. From this point of view, it is obvious that land is indispensable for economic, social and cultural self-determination in Ethiopia. Consequently, having or losing land directly affects the right to development positively or negatively, as the lack of control over or access to land as a result of displacement limits the prospects for socio-economic and cultural development.

It is absurd to talk about the constitutional right to development in the absence of land, which is a pillar of the economy in most of Ethiopian society. When displacements occur, most of the time, the IDPs who are former landowners fail to acquire alternative cultivable land. They thus either migrate to the cities and start living in slums or tend to depend on relatives for survival. The result is tenuous survival on sub-marginal lands or exploitation by relatives. The act of displacing persons from their land also violates the right to an adequate standard of living, which is provided for under the Universal Declaration of Human Rights (UDHR). The UDHR declares that everyone has the right to a standard of living that is adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care and essential social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or source of livelihood in circumstances beyond their control.<sup>66</sup> Displacement creates a situation that hinders people from improving their standard of living, thus constraining the realisation of the right to development.

The second effect of displacement lies in the sphere of social development of the affected peoples. One of the biggest challenges caused by displacement is deprivation from food security. The human being's existence has an inseparable relationship with food obtained from the land. Food insecurity is one of the basic problems that threaten the existence of the human being. The right to life is guaranteed and declared under different human rights instruments and lies at the core of all human rights. The Ethiopian federal *Constitution* guarantees that every human being has the right to life.<sup>67</sup> It stipulates that no one shall be deprived of life, except by reason of conviction, in accordance with the law, for a serious crime committed.<sup>68</sup> However, in the case of forced

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65 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 41(1).

66 Universal Declaration of Human Rights 1948:art. 25(1).

67 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:arts. 14-15.

68 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 15.

displacements, IDPs are not evicted from their land because of any criminality on their part, but simply because other people cause them to be displaced from their land unlawfully. This is essentially against the right to life for the IDPs as they depend on land for sustenance. The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees to every individual the right to food, shelter and clothing. It provides that:

[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.<sup>69</sup>

Displacement from land transgresses the right to food, shelter and clothing, as provided for not only in Ethiopia's national laws, but also in international conventions such as the ICESCR. Displacement also causes shortages of food, shelter and clothing, which ultimately results in limitations on the right to development, as secured in art. 43(1) of the Ethiopian federal *Constitution*.

The other social impact of displacement is related to health. When people are displaced, their opportunity to access health services is limited. The right to health is directly related to the right to life, which is enshrined in various human rights instruments, including the Ethiopian federal *Constitution*.<sup>70</sup> In the presence of an unwarranted health condition, the right to development of IDPs cannot be satisfied, mainly because healthcare is essential in enabling people to work, and to assure the realisation of their right to development. In the event of a displacement, elderly persons, persons with disability, children and women are mostly affected, due to their vulnerability. Women are most of the times challenged by violence, abuse and sexual assault, which contravenes their constitutional right to physical and mental health.<sup>71</sup> The Ethiopian federal *Constitution* further states that every person is equal and that discrimination based on sex is prohibited.<sup>72</sup> Displacement puts IDPs into various social crises resulting in loss of confidence, feelings of injustice, vulnerability and loss of self-esteem, especially when the displaced are newcomers in host communities. The latter are usually unwilling to accept resettled outsiders; this often leads to socio-cultural incompatibilities.

Displacements further restrict children's access to education for longer periods of time. The Ethiopian federal *Constitution* prioritises education by guaranteeing that "the State shall allocate progressively increasing funds for the purposes of promoting the people's access to health, education and other social services".<sup>73</sup> Education is key to the realisation of the right to development. It is crucial for developing the capabilities necessary for

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69 International Covenant on Economic, Social and Cultural Rights 1966:art. 11(1).

70 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 41(4).

71 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 35(4).

72 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 25.

73 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 43(4).

empowerment and effective participation in civil and political processes; essential for future employment opportunities and levels of income, which, in turn, are instrumental for the realisation of the right to development. This notwithstanding, many children in Ethiopia are forced to drop out of school and their right to social development is limited as a result of the rampant displacements. Studies show that the vast majority of children never return to school and often start working as labourers at an early age.<sup>74</sup>

The effect on cultural development is the third impact of displacement. Components of cultural identity include religion, rites of passage, language, dietary habits, and leisure activities. Displacement from land causes IDPs to lose the cultural identity they have developed over a long period of time and adapt the identity of others.<sup>75</sup> Since land constitutes a basis for the development of culture, religion, language and specifically the identity of people, in general, displacement eliminates the manifestations of identity. The affected ethnic groups have settled in a particular place and come through building special attachment to their identity with the land, which is critical for promoting cultural identity. It is often only after ascertaining the stability of one's language, religion, culture, or identity in general that the right to development may effectively be asserted. The Ethiopian federal *Constitution* guarantees to the nation, nationalities and peoples, the right to promote their cultural identity. It provides explicitly that "every nation, nationality and people shall have the right to speak, write and develop its language and to promote its culture, help it grow and flourish, and preserve its historical heritage".<sup>76</sup> The right to cultural development is not only pronounced in national laws, but it is also recognised under international instruments.

The ICESCR articulates the fact that all peoples have the right to develop their culture and that state parties should assure the realisation of that right.<sup>77</sup> It goes against the stipulations in international instruments and the national laws of Ethiopia that peoples are displaced from their land. This exposes them to various challenges such as identity crisis, culture shocks, mental stress, and marginalisation. The different crises experienced by displaced peoples impose severe limits to the realisation of their right to development.

The foregoing serves as a reminder to the Ethiopian government, individuals, non-governmental organisations and other major stakeholders that the realisation of the right to development requires, first and foremost, for Ethiopians to be securely established on their land on which they can lead stable lives.

## 5. CONCLUSION

A secured land right is significant to build inclusive, durable, and sustainable communities that will propel good economic, social and cultural progress in

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74 See, for instance, Gatwech 2019:1-60.

75 Arun & Kent 2009:4.

76 *Constitution of the Federal Democratic Republic of Ethiopia* 1995:art. 39(1).

77 International Covenant on Economic Social and Cultural Rights 1966:arts. 1 and 3.

the long run. This article aimed to illustrate that preventing the occurrence of displacement from land caused by ethnic conflicts and violence constitutes an important factor in guaranteeing the realisation of the right to development. Efforts aimed at eliminating instability and internal conflicts must recognise the need to ensure secure land rights, essentially because it empowers vulnerable and marginalised groups to improve their living conditions. Guaranteeing access to safe landholding can promote the rule of law and ultimately ensure that the right to socio-economic and cultural development is achieved. Indeed, the UN 2030 sustainable development agenda as well as the African Union (AU) 2063 agenda for development assert the fact that socio-economic development cannot be achieved unless respect for the rule of law is guaranteed to all peoples, especially to the most vulnerable and marginalised groups across Africa.

Humanity will not enjoy development without security. Yet, the prospect of Ethiopia finding its own development solutions to its present insecurity problems remains elusive. The realisation of the right to development requires an appropriate political, social and economic order for development; an appropriate national development policy framework as well as economic and social reforms to eradicate societal injustices.<sup>78</sup> To prevent mass displacement of the Amhara and other ethnic groups from their landholdings and thereby promote economic and social progress in Ethiopia, attention should be paid to the importance of securing land tenure for development outcomes. The government of Ethiopia needs to decisively address the inter-ethnic tensions caused by the issue of borders between regions/localities. It also requires prompt and impartial decision-making to prevent displacements and evictions of ethnic groups from their land and lawful possessions. In this regard, the legislature should revise all government laws, policies and structures that are likely to instigate land-related ethnic violence. The public and community groups also need to be educated in order to promote tolerance and peaceful coexistence. If this can be achieved, Ethiopia would pave the way to sustainable development for its people in the years ahead.

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