DEBRE MARKOS UNIVERSITY

SCHOOL OF LAW

The right to live in a clean and healthy environment in Debre Markos town, Special focus on laws and practices.

A senior research submitted in partial fulfillment of the requirements of the LLB Degree

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Debre Markos, Ethiopia.

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Declaration

This research is my personal work that has not been done by any other individual and that all sources used have been duly acknowledged.

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Acknowledgement

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Acronyms

ACHPR……African Charter On Human and Peoples Right

CRC ……Convention on the Right of Child

EIA……Environmental Impact Assessment

FDRE……Federal Democratic Republic of Ethiopia

ICCPR……International Covenants on Civil and Political Rights

ICESCR……International covenants On Economic Social and Cultural Rights

MELCA……Movement for Ecological Learning Community Action

NO ……Number

UN……United Nations

UNICEF……United Nations International children Emergency Fund.

WHO……World Health Organizations

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Chapter one, Introduction

1.1 Background of the study

"No one is environmentalist by birth, it is only your path, your life, your travels that awaken you".....Yann Arthus Bertrand/

The concept of environmental damage has somehow better understood to the world community in recent times. Environmental problems like deforestation, acid rain, water supply etc results in serious diseases, climate change, environmental pollution and the displacement of people from place to place[1].

The right to live in a clean and healthy environment is a basic human right, those the right to live in a clean and healthy environment is guaranteed under many national constitutions around the world, in doing so various constitutions take different measures to enhance environmental sanitation thereby to protect and respect the right to live in a clean and healthy environment. The right to live in a clean and healthy environment is every related concept with the health and wellbeing of people living in the environment[2].

Our country Ethiopia encounter various environmental challenges like soil erosion, air pollution and deforestation that result in desertification and climate change. Drought also prevails and the country's strong dependence on rainfall increases the effect and brings disease, and starvation. Ethiopia adopted an advanced strategy to develop agriculture based industrialization with a goal to achieve middle income level countries by the year 2025 without affecting the natural environment[3].Lack of adequate environmental

1The commission on human rights, sub-commission on prevention of discrimination and protection of minorities' Forty Fourth agenda item, Conference.

2 club india.com>Articles .constitutional law access date 1/12/2009

3Ibid

sanitation and hygiene are also the major environmental problems in Ethiopia. The common environmental problems that affect the right to live in a clean and healthy environment in urban areas are liquid and solid wastes, food contamination and other related problems[4].

Debre markos town is one of administration in Ethiopia specifically in Amhara region, As a town administration it has a task to keep the safety and sanitation of the town, in this respect the town has many administrative departments among those departments the municipal sanitation and beauty office and drink water and sanitation service office heads are the concerns of my study. In this study I have try to explore and deal with the right to live in a clean and healthy environment with special focus on the laws and practices. And the legal basis of the right to live in a clean and healthy environment.

1.2 statement of the problem

Nature provides us a healthy and clean environment for the survival of mankind. But, the environment has been changed by mankind for selfish ends by adding chemical charcoal, plastics, toxic chemicals and other hazardous wastes, those harmful wastes have changed the ecosystem and create environmental pollution and other health problems. [5] In the world many cities are affected with environmental sanitation issues, the available water supply in different country is polluted and air pollution is also the prevalent environmental damage, the polluted environment is affecting human health that cause to disease, and reduce life.[6] The evil activities of mankind in industrialization pollutes the natural environment, those these

4Ibid
5https;//books.google.com/books?isbn=8120330595,author Sensor /published/ access date 7/11/2009
6Ibid

unfavorable and evil conditions to improve living conditions conflict with the safety of environment, hence, this conflict have to be resolved from the very beginning in practical senses, if not the price for industrial change may have to be paid in terms of environmental disasters which may expose to threat of survival.[7]

Land degradation is a major problem that affects the natural environment in Ethiopia. Water and air pollution are the major environmental harms in town areas as a result of municipal and industrial wastes, because the urban solid and liquid waste management system is not well developed and the sanitation facility and sewage disposal service is not advanced.[8]

Similarly in Debre Markos Town administration there are environmental sanitation problems that affect the right of community to live in a clean and healthy environment. The researcher personally observes there is inefficient solid and liquid waste management, air pollution as a result of improper urination and dead animal's disposal like dogs, and, food contamination especially in areas far from the center of town. All this problem therefore affect environmental sanitation thereby the right of community to live in a clean and healthy environment in Debre Markos Town hence, the researcher hopes to address those issues under these study.

1.3 Research questions

This study aims to answer the following main questions.

What are the main problems that affect the right to live in a clean and healthy environment in Debre Markos Town?

Is there any institutional framework to safeguard the right to live in a clean and healthy environment in Debre Markos Town? If there is an institution

7 Ibid

8 Default/files/documents/Ethiopia-PDF=0 access date 2/12/2009.

what are the challenges of the institution?

1.4 Objectives of the study

1.4.1 General objectives

The general objective of the study is to explore the right to live in a clean and healthy environment with special focus on the laws and practices in Debre Markos Town.

1.4.1 Specific objectives

- To explore the gaps in the laws and practices about the right to live in a clean and healthy environment in Debre Markos Town.
- To assess the main difficulties to ensure the right to live in a clean and healthy environment in Debre Markos Town.
- To examine the challenges of institutional frameworks to safeguard the right to live in a clean and healthy environment in Debre Markos Town.

1.5Significance of the study

This study helps to identify the main problems in addressing the issues of the right to live in a clean and healthy environment and the gaps in the laws and practices in Debre markos Town. The researcher hopes this study furnish information to the government and Debre Markos Town administration to the current conditions of the safety and sanitation of town in general. In addition the researcher hope the study helps to equip a capacity building to the accountability of Debre Markos Town administration to the right to clean environment and enhance to make an

important policy change that provides environmental sanitation in the Town. Finally the study will also help for further study that may be conducted in related areas in the future.

1.6Scope of the study

The study focus on Debre Markos Town, The study is limited to the right to live in a clean and healthy environment with special focus on laws and practices in Debre Markos town.

1.7 Research methodology

1.7.1 Study design

The researcher employs a qualitative form of research design .This is because the main objective of the study is to explore and describe the right to live in a clean and healthy environment in Debre Markos town. Therefore, in order to conduct the study descriptive method is used to show the present level of areas of investigation and obtain clear information.

1.7.2Data sources and data gathering tool

The data for the study has collected by simple random sampling method, this is because this method is easy and accurate to analyze the information clearly .Both primary and secondary data's has used depending on the situation and their importance. Primary data have collected from interview and observation. Secondary sources are collected from internet, documents, books, and journals, reports from government and organizations e.t.c.

The target populations of the study are the Debre Markos Town Municipal sanitation and beauty department head, The Debre Markos Town drink water and sanitation service office and the inhabitants of the Town. This technique has chosen in order to save time, minimize efforts and cost as

well as to obtain adequate information to the issue at hand appropriately.

1.7.4Method of data analysis

From the beginning data's are collected next to this task data's are organized then it have been summarized and discussed accordingly. Descriptive method of data analysis was used to describe secondary data's; the study consists of qualitative data that was collected from interview and observation. This data's was described in statement form, finally comments and recommendations are forwarded.

1.7.5Organization of the study

The study comprises four chapters, The first chapter deals about the introduction part including background of the study, statement of the problem, research questions, objective of the study, significance of the study, scope of the study and organization of the study The second chapter deals with literature review, The third chapter emphasize on finding and discussions, In the last chapter conclusions and recommendations are given.

CHAPTER TWO, CONCEPTUAL UNDERPINNINGS

2.1 GENERAL OVERVIEW OF ENVIRONMENT

2.1.1 Definitions of environment

The term environment has defined in many literatures in different ways, among those definitions it is the space in which some kinds of natural exchange that makes life takes place as well as the various forms of living things exist on it.[9] Environment is a system that consists of natural and artificial elements that are closely related and which are changed by human activity, therefore it is the place exist around us including water, soil, air and own living things who develop its existence interacting each other.[10]

2.2sanitation

2.2, 1Meaning of sanitation

Sanitation is the means of promoting hygiene through the prevention of human contact with hazardous of wastes especially excretion, by proper treatment and disposal of the waste, often into wastewater.[11] Sanitation is the science and practice of effecting a healthful and hygienic conditions, study and use of hygienic measures such as drainage, ventilation, pure water supply, and disposal of sewage.[12]

Sanitation generally refers to the provision of facilities and services for the safe disposal of human urine and other dust particles so as to prevent the

9Internet, https;// edukalife,blogspot.com/2013//01/definition of environment.htm/ access date 4/12/2009

10

11Ibid

12www.ccess date 5/12/2009

major cause of disease.[13]

2.2.2Environmental sanitation

Environmental sanitation is an activity designed to improve or maintain the standards of environmental conditions including clean and safe water supply, clean and safe ambient air, efficient and safe animal, human and industrial waste disposal, protection of food from contamination and adequate housing in clean and safe surroundings that affect the wellbeing of people.[14] Environmental sanitation is the art and science of applying sanitary, biological and physical science principles and knowledge to improve and control the environment and factors there in for the protection of the health and welfare of public at large.[15]

2.2.3Reasons for environmental sanitation

In this age of environmental concern individuals are outwardly interested in the healthy state of their environment .as the population increase we become more connected with environment and each other through different transactions, therefore, our desire for a clean environment is a sign of sense of destiny and hope for the future [16] Man cannot live and survive amidst waste, environmental sanitation provides a clean air, water, land and energy. This are essential for human existence conducting transaction and economic growth thereby a safe and healthy life[17]Environmental sanitation provides clean drinking water that is an important part in maintaining the health of community. The UNICEF reports that access to safe drinking

13 14 access date 6/12/2009
14 dictionary.com/definition/environmental- sanitation.htm/ access date 7/12/2009
15 >Glossary>E access date 9/12/2009

16 https;// cleaning-and the environment /articles/access date 9/12/2009
17 Ibid

water and good sanitation are vital for family wellbeing, it results in control of disease, social and economic development of the society.[18]

2.3The notion of the right to live in a clean and healthy environment

The concept of the right to live in a clean and healthy environment has defined in different ways in many literatures. In broader sense the context of the right to live in a clean and healthy environment have considered as a general concept that consist a large scale of rights and obligations with regard to the environment, in narrower sense however, the right to live in a clean and healthy environment refers to the protection of environment[19].
Hence, the need of a healthy environment is an indispensable human right to realize sustainable development in any civilized society, the absence of the right to clean environment could give rise to self-help and chaos[20]. The concept of a right to live in a clean and healthy environment is a basic human right grouped under a third generation right that entitles human beings to live in an ecological environment that does not hamper life.[21]. Those the right to live in a clean and healthy environment implies that human beings are legally entitled to dwell in a life sustaining the environment and also be guarded against any environmental conduct which affects human health or life and enjoyment of nature. Therefore, the right to live in a clean and healthy environment is conceived as a complementary to other human rights such as the right to life, health, dignity, etc[22]

2.3.1 Why the right to live in a clean and healthy environment

18 https;// importance of sanitation-hygiene/ access date 10/12/2009
19 Ibid
20 The right to live in a clean environment National affair, Nigeria 42 environmental policy and law 2012-mozilla...access date 13/12/2009.
21 Ibid
22 Ibid at page 7

A healthy environment has always been recognized as a prerequisite for the implementation of other fundamental human rights, In this regard the World Health Organization has made a remark that ...`*The right to life and ended to life cannot be achieved without basic right to safe and healthy environment including water, air and land and to life supporting systems that sustain life on earth for future generations* [23]``. Climate change is already one of the most important drivers of ecosystem changes along with overexploitation of resources and pollution, This environmental harms have a wide range of implication on human rights because when environment suffers people suffer as a result environmental damages interfere with the realization of fundamentally recognized rights including the right to life ,health, development etc.[24] Environment contributes to the enjoyment of rights, there is a growing sense that environmental harms have generally a negative effect so that the goal of realizing rights necessarily entitle protecting the environment[25] . Environment is the place where humans as well as animals live, keeping it clean and net is our duty hence, the protection of environment is important to get fresh air, reduce pollution etc. A clean environment results to a good conditions of society, absence of disease and many more advantages[26] keeping our environment clean is very important part of our lives, in this days it is vital to focus on this, as we have to make sure that the environment has preserved for future generations. Those if we do not keep the right to clean environment there would be many consequences, which will be face by the society, and people live in the

23 Ibid

24 The UN human rights office of high commissioner for human rights report on the relation between climate change and human rights.

25 Ibid at page 96

26 Http;//blogs. Word press.com /2015/.../importance of keeping the environment clean /access date 15/12/2009

environment.[27]

Generally it is important to care about environment because our health directly depend on it ,many places across the world are living in a dirty and polluted areas or unclean conditions .In addition peoples are drinking unsafe water and other situations so that all this problems is causing many peoples to suffer from various health problems [28] Every individual should note that a clean environment is very important to the health of human being, today various kinds of serious health problems like cancer are increasingly fast across the world and the major reason behind this is increasing pollution of our environment ,hence every one of us should make our environment clean.[29]

2.4The right to live in a clean and healthy environment in international, regional and national law perspective

2.4.1The right to live in a clean and healthy environment in international law

Industrial development, population growth and the need to provide to sustainable development for all states and future generations have made an intensive cooperation among all states at the universal level to protect integrity of environment. [30] the effective protection of the safety of environment cannot be achieved unilaterally rather it requires the cooperation and solidarity of states and international regulation, this international regulation helps to restrict the sovereignty of states and result in the effective protection of the environment because the responsibility to

27 Ibid

28 kgw.aruindkatoch.com/2010/04/the importance of clean environment share my world access date 18/12/2009.

29 Ibid

30 A book on environmental law by Fred.Morrison and Rudiger Wolfrum published.

protect the environment is to the entire world.[31]Traditionally the concept of the right to clean environment was conceived as a state oriented discipline where a state would only responsible in the international sense for the damage caused to the environment, this were inadequate framework to deal with environmental issues because of the difficulty to address the non state actors like individuals and organizations.[32]

Recently the international community changed the situation and move from the traditional state responsibility to other non-state actors accordingly. A broad range of international participants are today concerned with the right to clean environment states as the main are highly involved and a number of international organizations are interested to environmental issues in global, regional or bilateral level.[33]The United Nation General Assembly has adopted a number of resolutions concerning environment after the Stockholm conference of 1972 which was situate its base in Nairobi, this resolution were an important programmed in the evolution of new conventions and other instruments in areas of environmental protection because it was involved by 58 member states elected by General Assembly.[34]

The right to clean environment under international law is few and ambiguous hence the right to clean environment is arguable at the international system. The various human right provisions that have a great connection to the right to clean environment such as the right to life, the right to health, the right to food, adequate standard of living has a contribution to environmental protection.[35] The preamble of seminal

31 Ibid
32 A book on international law by Malcolm N.shaw 2014. published
33 Ibid
34 Ibid
35 Ibid

Stockholm Declaration of the United Nation Conference on Environment 1972 states that...

``the environment was essential to... the enjoyment of basic human rights even to the right to life itself ``. Article 24 of African charter on human and peoples right in 1981 provides that `` all people shall have a general satisfactory environment favorable to their development ``.

Article 11 of the additional protocol to the American convention on human rights, 1998 states that `` everyone shall have the right to live in a healthy environment and the duty of states to preserve and protect such rights``. Article 29 of the convention on the right of child in 1989; explicitly refer the need of child to have directed intera lia to the development of respect for environment.[36]

The final text of the conference on security and cooperation in Europe meeting on the environment in Sofia 1986 provides the right of individuals, groups and organizations concerning environment to express their views, to associate with others peacefully and to make public participation on environmental issues.[37]An important stage was reached with the adoption of the Aarhus convention on access to justice, information and decision-making process in environmental concern in 1998.This convention explicitly links human rights and the environment and recognizes that adequate protection of the environment is essential to human well being and enjoyment of basic human rights. Article 1 of this convention provides that...each contracting party shall guarantee the access to justice, information and decision making to environmental matters.[38]

The final international instrument to the right to clean environment under this study is the United Declaration of human rights, this instrument is not

36 Ibid at page 615
37 Ibid
38 Ibid at page 617

also explicitly recognized the right to clean environment, however, it gives protection to such rights. The other states in its six cross cutting themes the change in environment has a significant impact on our ability to enjoy our human rights because damaging the environment is damaging the right of people.[39]

Generally, though the right to clean environment has not expressly recognized in many international instruments it is impliedly guaranteed and protected in international system because of the great relevance of the right.

2.4.2The right to live in a clean and healthy environment in regional laws

The most important regional instruments to the right to clean environment are the African, Inter-American and European system, each of the system has their own features that need to have discussed below.

The African human right system

The 1981 African charter on human and people's right is the main instrument to the right to clean environment in the African system. The charter under its article 24 provides that ``all people shall have the right to a general satisfactory environment favorable to their development.[40] Hence, the charter promotes and protects the right to clean environment together with other basic human rights in the continent.

The Inter-American human right system

The 1998 additional protocol convention on human rights also known as ``Protocol of SAN SALVADOR`` is the most important instrument under the American system.

39 The universal declaration on human rights in six cross cutting themes./..>English .>universal declaration on human rights. access date 19/12/2009.

40 The African charter on Human And peoples Right.1981 PDF

The additional protocol recognizes an individual right entitlement, it reads as…``everyone shall have the right to live in a healthy environment and to have access to basic public services.[41] The protocol also provides a duty on state parties to preserve, protect and improve such right under the same provision.

The European human right system

The European system on human rights does not have any provision that directly refers the right to clean and healthy environment .The European court of human rights recognize the right to clean environment by referring case laws by this the right to clean environment is recognized and protected alongside with other human rights under the European convention on human rights.[42] However, the Council of Europe under its manual on human rights and environment in 2003 made a better recognition and protection to the right to clean environment in different sections, the manual provides a duty on member states to preserve and protect the right to clean environment.

The manual generally shows that basic human rights cannot be achieve without the protection of the right to clean environment.[43]

2.4.3The right to live in a clean and healthy environment in national laws

The right to clean environment was in ancient time considered as a novel, even a radical idea, but today it is widely recognized in many countries legislation. Even more despite their recent recognition the right to clean

41 Additional protocol of San Salvador Article 11

42 European jurisprudence on preserving the right to clean environment =main pdf.

43 The manual on human rights and environment under the Council of Europe. Published

environment has endorsed in more than 90 national constitutions.[44]Those constitutions serve as a remarkable achievements ranging from stronger environmental laws to a landmark to court's decision to avoid pollution and advancement of clean drinking water as well as to the overall environmental sanitation.[45]

2.5The right to live in a clean and healthy environment under the Ethiopian legal frameworks

In the context of Ethiopian legal system the right to clean environment has guaranteed under different legislations including the Constitution, the environmental policies, proclamations and other laws and regulations. In addition to domestic laws the international instruments that have signed as per article 9(4) of the Federal Democratic republic of Ethiopia /FDRE/ also helps to safeguard the right to live in a clean and healthy environment in the country.

The FDRE constitution explicitly declares that…all persons have the right to live in a clean and healthy environment. The constitution announces that government has a duty to endeavor to ensure that all Ethiopians live in a clean and safe environment.[46] , hence, our constitution approach towards the right to clean environment is an individual right entitlement.

The environmental objective under FDRE constitution also provides the implementation of any development activity not to damage the environment and the duty of both government and citizens to protect the environment.[47]

The other important legislation to the right to clean environment in Ethiopia

44 magazine .org/Archives/…/2012/July. The constitutional right to a healthy environment. Access date 20/12/2009.

45 Ibid

46 The constitution of Federal Democratic Republic of Ethiopia /FDRE/ /negarit gazeta article 44(1) and 92.

47 Ibid

is the environmental policy. The FDRE constitution develops a comprehensive environmental policy on the environment to harmonize development and rehabilitate environmental damages.

The overall environmental policy of Ethiopia is to improve and enhance the health and quality of all Ethiopians and promote sustainable social, economic development through sound management and cultural resources and the environment as a whole to meet the needs of present generation without compromising the ability of future generations to meet their own needs.[48]

The third environmental laws that regulate the right to clean environment in Ethiopian legal system is proclamations, the proclamation number 300/2002 environmental pollution control proclamation and the proclamation NO 299/ 2002 environmental impact assessment proclamation are the dominant proclamations that a dress the right to clean environment in Ethiopia.

The proclamation No 300/2002_ environmental pollution control proclamation has the objective to protect the environment from pollution; this is the main environmental proclamation that is enacted for the first time in our country with related to environmental pollution. It is designed to address environmental pollution as its name implies this proclamation deals with the control and regulation of environmental pollution. The preamble of the same proclamation says …it is appropriate to eliminate or when not possible to mitigate pollution as undesirable consequence, or social and… ``[49]

Article 3(3) of the environmental pollution control proclamation prohibits

48 The Ethiopian environmental policy proclamation number 9/1995/2010.

49 Environmental Pollution control proclamation NO 300/2002 Federal Negarit Gazeta. Year NO. 12 Preamble

anyone from polluting the environment and impose a duty upon everybody engaged in any field of activity that cause pollution to install a sound technology that avoids environmental pollution. In addition, the proclamations empower and oblige the environmental protection authority or relevant regional environmental agencies to take necessary corrective measures to prevent our environment from any possible harm.[50]

Finally, the proclamation NO 299/2002_ environmental impact assessment proclamation is the most important legislation in our country to promote and protect the right to clean environment in our country. Its preamble states that environmental impact assessment/EIA/ facilitates sustainable development, fosters the implementation of the right to clean environment, brings administrative accountability and transparency and enables public to participate in the development planning which may affect them and the environment.[51] Hence, environmental impact assessment proclamation has a significant role to safeguard the right to clean environment if it has properly implemented in the country.

Generally, the Ethiopian legal framework provides the right to clean environment in a multiple legislations ranging from the constitution to regulations hence, I think our legal system is inspiring and need to be appreciate because many legislations in international and regional system did not expressly recognize the right to clean environment as an individual right entitlement like our country. On the other hand, our legal system incorporates many other environmental laws, proclamations, policies, and regulations that have not discussed in this study to enhance environmental sanitation.

50 Ibid article 3(5).

51 The proclamation NO 299/2002 environmental impact assessment preamble.

2.6Institutional frameworks to the right to live in a clean and healthy environment in Ethiopia

The current system of Ethiopia has constitutionally organized into federal structure, comprised of federal system.[52] Therefore each tiers of government have their own organization and administration structure. The proclamation NO 295/2002_ environmental protection organs establishment is the most important proclamation that sets institutional frameworks to both the federal and regional governments in our country. The proclamation has the major objective to assign a responsible and separate environmental agency for the management, development. Monitoring, protection and regulation of environmental issues, on the other hand the proclamation has designed to establish a coordinated and responsible environmental protection agency at federal and regional levels.[53]The proclamation further states that every competent agency shall establish an environmental units for effective coordination and follow up mechanisms so as to make the activities of each agency in compliance with the same proclamation and other relevant environmental protection requirements.[54] It is possible to say that those proclamations has important role because different ministers can be established at the federal level in areas such as water, mining and other areas which are closely related to environmental issues.

The proclamation NO 295/2002 also require each regional states to establish an independent environmental agency or to designate an existing agency that ensure public participation in decision making process in environmental concerns.[55] Hence, in line with the proclamation regional states have the duty to establish institutions for the implementation of

52 Supra note 47 article,1
53 Proclamation NO 295/2002 Environmental Protection Establishment.
54 Ibid article,, 14
55 Ibid article,15

federal laws and their own laws. Therefore, each regional state has several line bureaus that facilitate the protection of environment.

I think this system of regional institutional framework strengthen the tasks in carrying out environmental issues and the effective protection of the right to clean environment itself at zone and even to woredas and kebeles if properly undertaken. In addition since as I know regional states have bureau of water resources, health, environmental protection etc. which are responsible or interested to the protection of environment, this also strengthen the promotion of environmental sanitation in general.

2.7Institutional frameworks to the right to live in a clean and healthy environment in Amhara region and specifically Debre Markos Town

The Amhara regional state has no an independent environmental protection authority before the establishment of Amhara regional state executive organs re-establishment, organization and determination of their powers and duties proclamation NO 120/2006,rather the environmental protection authority and rural land administration and use authority was mixed together and function jointly. Later,

the proclamation NO 120/2006 have made the environmental protection authority and rural land administration and use authority autonomous and directly accountable to the head of regional government,[56] This arrangement is believed to increase the independence of environmental authorities from the previous mixed system. Another new proclamation NO 176/2010 has been enacted to re -establish and determine the powers of executive organs of regional state. The new proclamation mixed the

56 The Amhara regional states executive organs re-establishment, organization and determination of their powers proclamation NO 120/2006, article 29(12) (b).

environmental protection authority and rural land administration and use authority again and gave a nomenclature of Environmental Protection and Rural Land Administration and use Bureau.[57] Generally even though there is institutional framework to environmental protection in Amhara region problems are still prevalent because the environmental protection organ is now mixed with the rural land administration and use department bureau in doing so much emphasis is given to the rural land administration and use department by neglecting environmental protection, for instance the reports made to the office of regional states president show only parts of land administration and use by leaving the environmental protection apart or by giving little concerns.[58]The institutional framework to environmental protection in Debre Markos Town is similarly carried out by a mixed standing organ. The Town Municipal office have both environmental sanitation and beauty and urban plan implementation head within one office, those mixing the two different departments within the same office inevitably have its own challenge because it is not easy to assess the accountability and transparency of urban plan implementation and sanitation and beauty departments, in addition any conflict of tasks could

57 Ibid article 10(5)

58 Comments in the meeting ``Movement for Ecological Learning Community Action`` .../MELCA/ Ethiopia

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happen due to the absence of independent organ to both environmental protection and urban plan implementation departments and emphasis could be given to the urban plan implementation than environmental sanitation and beauty, therefore, the right to clean environment and the overall environmental sanitation in Debre Markos Town could be at stake. As a concluding point, environmental sanitation is the prerequisite element to the health and development of the world community as discussed in many literatures. However, the natural environment is become seriously affected by the evil activities of human being round the world, by this fact the right to clean environment is an important human right entitlement that deserves special protection in domestic as well as international legal system.

CHAPTER THREE, FINDING AND DISCUSSIONS

3.1 Problems that affect the right to live in a clean and healthy environment and the overall sanitation in Debre Markos Town.

As it has discussed in the preceding chapters clean and safe environment is

an essential element to life in the world, however so as to achieve this element a number of problems encounter us. Hence, in the study at hand Debre Markos Town administration is facing the following major problems in ensuring the right to live in a clean and safe environment in general and sanitation in particular.

Problems related to the town Municipal sanitation and beauty head office

As it is mentioned somewhere in this study Debre Markos Town has a municipal office sanitation and beauty department head as a town administration, therefore, as I have interviewed Ato Belay Zenebe who is the town sanitation and beauty head officer, Debre Markos Town encounter problems including lack of the community awareness to environmental sanitation, for instance, the community are negligent in disposing liquid and solid waste in the town, hence in this respect it is common to observe contaminated food, dead animals plastics, urines and other wastes in the town. So the community is not well informed about environmental sanitation and beauty[59].The second problem as per the interview made with Ato Belay Zenebe attributed to the Municipal office is budget constraint. It is well known that budget is one weapon to ensure environmental sanitation, hence, Ato Belay Zenebe state's ``budget is not independently allocated to ensure environmental sanitation rather the Municipal office sanitation department obtain its budget from budgets allocated to other sectors like the urban plan implementation head`` ,hence, lack of independently allocated budget to environmental sanitation and beauty department is one of the major difficulty to ensure environmental sanitation in Debre Markos Town[60].

59 An interview with Ato Belay Zenebe the Debre Markos Town municipal sanitation and beauty head officer at date 13/2/2010.

60 Ibid

The third problem that affects environmental sanitation in Debre Markos Town as to Ato Belay Zenebe reflection in the interview is lack of adequate concern, initiation and coordination among the municipal environmental sanitation and beauty officers. In this respect Ato Belay Zenebe /the head officer in sanitation and beauty department/ himself, acknowledged that there is no effective coordination and initiation between the administrative staff members in safeguarding environmental sanitation. In addition, he reflects emphasis has given to environmental sanitation in case when a guest has invited in the town and in holidays. Therefore as per the interview conducted with Ato Belay Zenebe environmental sanitation concerns have carried out occasionally in Debre Markos Town, while, environment is something, which deserves regular preservation[61].

The fourth and last problem affecting the right to live in a clean and safe environment in Debre Markos Town attributed to the municipal office as the researcher conducted an interview with Ato Belay Zenebe is the absence of rules and directives made by the town administration to govern environmental sanitation issues thereby protecting the safety of environment and safeguarding the right of the community. In this respect Ato Belay Zenebe states in the interview Debre Markos Town administration could have rules and directives to preserve the environment and respect the right of community to live in a clean and safe environment, unfortunately, the town administration failed to make rules and directives. In addition Ato Belay Zenebe reflects the persons employed in municipal sanitation and beauty head office are not experienced in environmental laws and the personnel's have no adequate skills and knowledge to environmental issue laws, by this fact it is hard to even to use regional and federal environmental laws. As an instant Ato Belay Zenebe says the reality that

61 Ibid

there is no any individual who is subjected to punishment due to his fault in environmental sanitation yet in Debre Markos Town[62], therefore, the absence of rules and directives and lack of skill and knowledge to other regional and federal laws makes environmental sanitation very hard in Debre Markos Town.

Problems that affect the right to live in a clean and healthy environment and the overall sanitation under Debre Markos Town clean water and sanitation service head office.

In addition to the town, municipal sanitation and beauty head the researcher conducted an interview with the Debre Markos Town clean water and sanitation service head, in doing so /Ato Berhanu Tenaw the clean water supply and sanitation head officer/ reflects that the attitude of community to environmental sanitation has not well developed in the town. In addition, he states there is no initiation and cooperation to the safety of the environment and the community is not voluntary to participate in public decision-making participation whenever forum for discussion has given to environmental concerns twice a year, though twice a year is not enough to achieve effective environmental sanitation in the town[63].

In addition, as the researcher interviewed Ato Berhanu Tenaw he reflects areas having access to water supply are exposed to solid and liquid wastes because of lack of proper and effective waste management system due to the fact that the waste disposal system is not modern and lack of coordination between different sectors in the town administration, even the municipal sanitation and beauty head office and the clean water supply and sanitation head office are failed to work together so as to preserve the environment thereby respecting the right of the community to live in a clean

62 Ibid

63 An interview conducted with Ato Berhanu Tenaw /the Debre Markos Town clean water and sanitation beauty head officer at date 15/2/2010.

and safe environment in Debre Markos Town[64].

Problems that affect the right to live in a clean and healthy environment and the overall environmental sanitation attributed to environmental sanitation workers in Debre Markos Town

As a town Debre Markos Town administration have workers employed to keep the safety of environment by cleaning wastes in the town. Those workers have divided into several groups in different areas of the town with a view to bring environmental sanitation effective across the town. So like the town municipal sanitation and beauty head office and the town clean water supply and sanitation service head office discussed above workers in environmental sanitation also faces major problems in performing their duties to preserve the safety of town and protect the right of community to live in a clean and safe environment. Therefore, as the group interview conducted with the workers the main problems that affect the right to live in a clean environment attributed to the workers are the community considers workers as an inferior persons even workers say they are not considered as humans, the payment to workers is low which is not proportionate to their work, unfortunately most of the workers are females having large family while they have no any other sorts of income[65].

The other problem that faces the sanitation workers is that workers cover the cost of environmental sanitation materials like Broom, Baskets, Plastics etc, from their own salary this is because the town municipal sanitation and beauty department is not able to provide them the above-mentioned materials[66].

The other most important problem that faces the environmental sanitation

64 Ibid

65 A group interview conducted with environmental sanitation workers in Debre Markos Town at date 20/2/2010

66 Ibid

workers as the interview had made with workers is that there is no any guarantee to workers in case they suffer damage in carrying out their duties. In addition the employment opportunity to workers in sanitation is not permanent[67], therefore, all this problems reduce the inspiration of workers to preserve environment in Debre Markos Town.

Problems that affect the right to live in a clean and healthy environment attributed to the community in Debre Markos Town.

Like any other personnel are discussed above, the communities also have a major contribution to environmental harm in Debre Markos Town. Hence, as per an interview conducted with residents of the town the residents have the conception of the right to live in a safe and clean environment, however the community does not deny the fact that there is negligence to preserve the safety of environment on the resident by themselves because the Debre Markos Town is affected by environmental harms like food contamination, died animals, urination, plastics and other solid and liquid waste substances through negligent and unwise activity of human beings[68].

The community further reflect to the interview conducted that environmental sanitation is not insured in the town as it is expected from zone administration because the town municipal sanitation and beauty office is not carry out effective follow up mechanisms, as an instant solid waste disposal is made infrequently, even considerable sanitation and beauty activity effort is held in the middle of town where many business transaction are going on like hotels and other merchants are settled on[69]. Hence as the interview shows each kebeles have no equal chance to environmental sanitation in Debre Markos Town.

The other major problem that affect the right to live in a clean and safe

67 Ibid
68 An interview conducted to the residents of Debre Markos Town at date 25/2/2010.
69 Ibid

environment in Debre Markos Town from community side as the interview conducted is that the town municipal sanitation and beauty establish urban development group to foster the realization of environmental sanitation in the town, unfortunately, those group carry out its task only in the middle of the town, however, remote kebeles are not participate in group there solution is self help measures.[70]

The last problem that affect the right to live in a clean and safe environment and the overall environmental sanitation in Debre Markos Town as the interview made depicts is that public participation in environmental sanitation decision making forum is not given to the community by the Debre Markos Town municipal sanitation and beauty head department, though, there is little effort by the town clean water supply and sanitation service head office[71].

3.2The institutional frameworks to safeguard the right to live in a clean and healthy environment

Institutional frameworks as a set of formal organizational structure is a precondition for the successful implementation environmental sanitation [72],Lack of a sound institutional framework is the root cause of inefficient and ineffective environmental sanitation provision and protection of the environment [73].Therefore, coming to the study area Debre Markos Town administration have no an independent environmental sanitation institution to safeguard the right of the community to live in a clean and safe environment. As the interview conducted with the Debre Markos Town municipal sanitation and beauty head officer Ato Belay Zenebe states the

70 Ibid
71 Ibid
72 https;//access date13/3/2010
73 Ibid

town have no an independent institution that is designed to enhance the safety of environment and the right of community to live in a clean and healthy environment[74].Hence the Debre Markos Town environmental sanitation department have a joint institution together with the Debre Markos Town urban plan implementation head department.

From the above discussion one can guess the challenge of environmental sanitation and beauty department having no an independent institution where the environment is become a hot issue which deserves a special emphasis mainly establishing an independent institution. So as the interview is made with Ato Belay Zenebe he states the joined of two departments /environmental sanitation department and urban plan implementation department /is very challenge, because it make a clash of tasks and it is not convenient to treat every community complaints to environmental issues accordingly in joined institutional setups[75].

Ato Belay Zenebe further state in the interview that much concern has given to urban plan implementation program than environmental sanitation and beauty tasks. Even Ato Belay Zenebe added that the budget for environmental sanitation has derived from urban plan implementation department[76].

As a concluding remark there is no an independent environmental sanitation institution that preserve the safety of the town and protect the right of community to live in a clean and safe environment in Debre Markos Town rather both the urban plan implementation head and environmental sanitation and beauty head departments are joined together within one office.

74 Supra note 60
75 Ibid
76 Ibid

After all the efforts made in the above discussion the researcher come up with the following findings,

- The Debre Markos community awareness towards environmental sanitation is not well developed.
- The Debre Markos Town environmental sanitation and beauty implementation officers themselves are not strongly committed in follow up mechanisms for the observance of environmental sanitation and the right of community to live in a clean and safe environment. Because, of low initiation, coordination and concerns.
- There are no rules and directives made in Debre Markos Town to preserve environmental sanitation, in addition personnel employed in environmental sanitation lack the necessary skills and knowledge to enforce other regional and federal environmental laws.
- Teamwork and coordination among environmental sanitation department and other stakeholders is not common.
- There is no an independent institutional framework to foster environmental sanitation in Debre Markos Town.

3. 3Gaps in the laws and practices for the right to live in a clean and healthy environment in Debre Markos Town

The Ethiopian legal system guaranteed the right to live in a clean and healthy environment at various legislations including the constitution, proclamations, environmental policies and other laws. In addition to its domestic laws Ethiopia has international instruments which are signed as per article 9/4/ of FDRE constitution. Among other laws the FDRE constitution clearly states all persons have the right to live in a clean and healthy environment, in addition the constitution provides the government a duty to endeavor to ensure that all Ethiopians live in a clean and healthy environment and also the duty of citizens to protect the natural

environment [77].Hence it can be said that the legal frameworks to safeguard the right to live in a clean and healthy environment in Ethiopia is clearly guaranteed but, when we come to the study area Debre Markos Town personnel's employed in environmental sanitation are not expert in skill and knowledge especially to the federal and regional laws, on the other hand, the Debre Markos Town administration have no any internal rules and directives to govern environmental issues[78].hence this is one major gap to ensure the right to live in a clean and healthy environment.

The last gap in the laws and practices that can be raised to the right to live in a clean and healthy environment in Debre Markos Town is that employees of municipal sanitation and beauty head office lacks the required initiation, coordination and accountability, on the other hand the residents of Debre Markos Town are not well informed in their awareness to environmental sanitation hence, the community themselves are not discharging their duty to protect their environment, rather the safety of environment is affected through negligent activities of the community[79].

77 Supra note 47
78 Supra note 60
79 Ibid

CHAPTER FOUR - CONCLUSION AND RECOMMENDATIONS

4.1 Conclusions

It is a well known fact that the concept of human rights in general emerged after the second world, but the right to live in a clean and healthy environment as one component of human right was not given a priority. Recently the right to live in a clean and healthy environment is a basic human right entitlement in many international, regional and national instruments.

The right to live in a clean and healthy environment is a very related concept with the right to live, by this fact the international instruments as well as different national legislations take different measures to respect, protect and preserve the right accordingly.

The natural environment provides us a clean and healthy environment for our survival and well being, but, it has been changed by human being through unwise and selfish ends by adding different contaminated wastes, those the evil activities of mankind in the environment affects human health

and cause disease thereby loss of life, therefore the environment is something which deserves adequate preservation and protection in general.

The Ethiopian constitution/FDRE/ explicitly declares that ``All persons have the right to live in a clean and healthy environment under article 44/1/.The constitution also announces that the government has a duty to endeavor to ensure that all Ethiopians live in a clean and healthy environment under article 92/1/.In addition to the constitution the right to live in a clean and healthy environment is guaranteed under environmental pollution control proclamation, environmental impact assessment proclamation and environmental policies in Ethiopia.

Therefore, the right to live in a clean and healthy environment is clearly provided under the Ethiopian legal frameworks, hence the problem with respect to protecting and respecting the right to live in a clean and healthy environment is not the absence of legislations rather it is associated with institutional setup and practical problem in implementation.

Accordingly, as per the data's gathered from observation and interview the study area Debre Markos Town faces major practical problems in the enforcement of the right to live in a clean and healthy environment including lack of adequate skills and knowledge as well as experience to the federal and regional environmental laws and lack of initiation, coordination and accountability between and among employees of sanitation head office on the one hand and lack of awareness, cooperation and public participation in preserving and protection the environment by the residents of the town in general. Hence, team works and coordination between the community with environmental sanitation institution and among the different stakeholders is not common in Debre Markos Town to enhance the protection of the right to live in a clean and healthy environment thereby to fill the gaps in the laws and practices.

4.2 Recommendations

Preserving the environmental sanitation is an important task to bring community change and ensuring the right of certain community to live in a clean and healthy environment, if not there would be a problem in the health of people across the Town. Therefore, after exploring the overall problems associated with the gaps in the law and practice in Debre Markos Town the researcher would like to recommend the following points.

- ✓ The Town administration municipal sanitation and beauty head office should create awareness to the residents of the town to foster the implementation of environmental sanitation.
- ✓ The town administration should made internal rules and directives for the better and effective implementation of the right to live in a clean and healthy environment.
- ✓ The town administration should employ personnel's having the skills, knowledge and experiences in environmental sanitation issues and laws.
- ✓ The town administration municipal sanitation and beauty head office should take measures or penalties on residents of the town who affects the safety of the environment and on the employees working in municipal sanitation and beauty head office to enhance transparency and accountability.
- ✓ The town administration municipal sanitation and beauty head office should have effective follow up mechanisms to preserve and foster environmental sanitation uniformly across all kebeles in the town without any distinction through teamwork and coordination between the residents of the town.
- ✓ The town administration should provide an incentive for municipal

environmental sanitation and beauty workers like free medication, permanent job prospect, and salary increment as well as cover the costs of environmental sanitation materials.

- ✓ The town municipal sanitation and beauty head office shall establish a forum for discussion and grievance and to enhance public participation in decision making in the overall environmental issues.
- ✓ The town administration should establish an independent environmental sanitation institution if possible, if not it should at least separate the urban plan implementation and urban sanitation departments from carrying out their tasks within one office to safeguard effective and efficient tasks.
- ✓ There should be coordination among the town municipal sanitation and beauty head and the town clean water supply and sanitation service head office as well as among different stakeholders.

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Annexes

Interview questions

Interview questions to the town municipal sanitation and beauty head officer.

1 What is the altitude of Debre Markos town community towards environmental sanitation and is there any awareness creation to environmental sanitation thereby ensuring the right of community to live in a clean and healthy environment?

2 What are the main problems that affect the right to live in a clean and healthy environment in Debre Markos town?

3 Is there internal rules and directives to safeguard the right of community to live in a clean and healthy environment in Debre Markos town? If there is no what are other alternatives?

4 What are the challenges of the absence of an independent environmental sanitation institution in Debre Markos town?

5 Is there adequate initiation, coordination and accountability among the environmental sanitation institution employees to preserve the environment in Debre Markos town?

6 Is there any measure that has taken against anyone who affects the safety of environment and the right of community to live in a clean and healthy environment in Debre Markos town?

Interview questions to the town clean water supply and sanitation service head officer

1 Is there any challenge attributed to environmental sanitation in providing access to water supply and sanitation service in Debre Markos town?

2 Do the Debre Markos town clean water supply and sanitation service head collaborate with the municipal environmental sanitation and beauty head office to preserve the environment and ensure the right of community to live in a clean and healthy environment?

Interview questions to environmental sanitation workers in Debre

Markos town

1 What is the altitude of Debre Markos community towards environmental sanitation?

2 What are the main problems that affect environmental sanitation and the right of community to live in a clean and thy environment?

Interview questions to residents of Debre Markos town.

1 What is your attitude towards environmental sanitation and the right to live in a clean and healthy environment?

2 What are the major problems that affect the safety of environment and the right to live in a clean and healthy environment?

3. Is there cooperation and a forum for discussion in environmental decision-making issues in Debre Markos town?