



THE IMPACT OF CORRUPTION ON THE ENJOYMENT OF HUMAN RIGHTS: THE CASE OF SNNPRS ETHICS AND ANTI CORRUPTION COMMISSION AND JUSTICE BUREAU

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The Impact of Corruption on the Enjoyment of Human Rights: The Case of South Nations Nationalities and Peoples Regional State Ethics and Anticorruption Commission and Justice Bureau

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Declaration

I Kebede Someno Ewalo, hereby declare that this thesis is my original work and has never been presented to any other institution. I also declare that all secondary information utilized has been appreciated/duly referenced in this work. Hence, this thesis is presented in partial fulfilment of the requirements for the award of Human rights and Criminal Law.

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Dedication

This work is dedicated to the almighty Lord, because hadn't been his help and comfort, I couldn't have completed this thesis. To also my beloved wife, and my children, as I consumed their time on education and this thesis work while they deserve my love and affection. Moreover, to also my late dad and mom for their invaluable contribution on my life all.

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Kbede Someno

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List of Abbreviations

ACCs	Anti-Corruption Commissions
AfCHPR	African Charter on Human and Peoples' Rights
AI	Amnesty International
AG	Attorney General
AUCPCC	African Union Convention on Prevention and Combatting Corruption
CESCR	Committee on Economic, Social and Cultural Rights
CPI	Corruption Perception Index
FDRE	Federal Democratic Republic of Ethiopia
FEACCE	Federal Ethics and Anti-Corruption Commission of Ethiopia
IACAC	Inter-American Convention against Corruption
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ICOHRP	International Council On Human Rights Policy
HRC	Human Rights Committee
NANHRI	Network of African National Human Rights Institutions
NHRI's	National Human Rights Institutions
NGO	Non-Governmental Organizations
OUA	Organization of African Unity
OHCHR	Office of High Commissioner for Human Rights
SIP	Special Investigation Unit

SNNPRS	South Nations Nationalities and Peoples' Regional State
SNNPRSEACC	South Nations Nationalities and Peoples' Regional State Ethics and Anti-Corruption Commission
SNNPRSAG	South Nations Nationalities and Peoples' Regional State Attorney General
TI	Transparency International
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Program
UNODC	United Nations Office on Drugs and Crime
WB	World Bank

Abstract

Corruption is a global phenomenon that the world's community faces without any status difference in fact its severity varies from place to place or country. Though it exists and affects every society, there is no universally accepted definition of corruption. Moreover, its causes, forms and impacts are diverse and thus it has an economic, social as well as human rights aspects. And, the pain of corruption touches all the human family, its negative effect will be doubled in the case of vulnerable groups of the society. Above all, corruption is a universal problem which undermines the universal value-human rights. The international, regional as well as the national anticorruption initiatives and legislations against corruption take a political and economic point of view in addressing corruption. The measures adopted in this regard, are not sufficient in responding to such a sophisticated problem of corruption which violates human rights. The anticorruption conventions and national legislations do not address corruption as a human rights issue except the AU convention on prevention and combating corruption which highlighted to some extent. These anticorruption tools are similarly applied in the study area (SNNPRS) disregarding corruption as human rights issue.

The existing literature also reveals that the relationship between corruption and human rights is negative, that is corruption affects the human rights in one way or the other resulting in violation of such rights, suppressing the efforts for the enforcement of human rights as set forth in the relevant human rights instruments. On the other hand, enhancing the implementation of human rights standards and principles to the extent required, can be the preventive tool for the fight against corruption.

Therefore, in study it is recommended that the fight against corruption should also be diversified and integrated, hence the anticorruption instruments should be reconsidered and revised so that the human rights approach should be part of the anticorruption regimes. It is also recommended that the regional government of the study area should establish binding forum so as to enable collaboration and cooperation between NHRIs and ACCs thus the complementarity between anticorruption efforts and human rights promotion and protection can be capitalized upon through mutual mainstreaming.

Key words: *corruption, anticorruption, human rights, human rights violation, anticorruption instruments.*

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Chapter One

1 Introduction

1.1 Background of the Study

Corruption exists throughout human history. It is a complex and “global phenomenon”¹ which has been experienced throughout the world’s countries either in developed or developing. In other words, corruption is a global concern which devastates the efforts of the world’s community to protect and promote the human rights; by lessening or diverting the focus or the whole resource allocated to that effect.² Though it commonly affects the whole community of the world, it has however not been consensually defined yet. However, according to the World Bank’s definition, corruption means “abuse of public or corporate office for private gain.”³ The use of this definition excludes the incidence of corruption in the private sector, and it focuses exclusively on corruption happening in the public sector.⁴ Transparency International, which is the global civil society organization leading in the fight against corruption,⁵ in its part defined corruption as “the abuse of entrusted power for the private gain.”⁶ This definition is more frequently utilized one, which is broader in that it does not delimit incidence of corruption to the public sector alone hence, it considers the occurrence of corruption in private sects. Whatever the definition of corruption may be, it has social, economic, political as well as human rights implication in which this paper focuses on.

As mentioned earlier, corruption has existed and constituted a serious problems since ancient civilization. It has been experienced by all communities of the world, in both developed and

1 Vinay Bhargaba, *the cancer of corruption: World Bank Global Issues Seminar Series*, available at <http://siteresources.worldbank.org/EXTABOUTUS/Resources/Corruption.pdf>.

2 Kilimanjaro International Corporation Limited, (2013), *Ethiopia Second Corruption Perception Survey*, the Federal Ethics and Anti-corruption Commission of Ethiopia.

3 *Ibid.*

4 Boris B., *Corruption: Concepts, Types, Causes, and Consequences*, Center for International Private Enterprise ECONOMIC REFORM Feature Service, (March 2, 2005), available at: www.cipe.org.

5 Transparency International, *Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities*, International Council on Human Rights Policy (2010), Geneva, Switzerland.

6 *ibid.*

developing nations, however, it is a grave reality due to different factors, which is not the focus of this study. Though corruption exists everywhere, it hasn't been uniformly/commonly understood and defined because it is more of a subjective concept whose meaning may not always be the same, for instance, one person's corrupt act (bribe) may be normal as providing gift for some reason of affiliation however, this paper will no longer go deep in to appraisal of different types and categories of corruption rather it is intended to reflect the negative impact that corruption has on the enjoyment of human rights and at the end will try to posit and recommend some possible suggestions.

In this regard, though all category of corruption has negative impact on the enjoyment of human rights, grand corruption, which involves substantial amounts of money and mostly high level of public officials⁷, causes serious harm than other categories of corruption like gross human rights violations⁸. It includes kickbacks to win large procurement contracts, embezzlement of large sum of public fund for private gain⁹. Moreover, grand corruption has the power of distorting the public policy diverting the public resource which is important to day to day life of individuals or the societies in general¹⁰. This has been manifested in different mega project cases entertained by the courts of the region at hand, where the researcher has been working as a public prosecutor since 2009 till now¹¹. As will be revealed in this study, grand corruption has devastating negative effect on human rights than the petty one, but as the World Bank concluded in its report on Ethiopia(1998), 'Grand corruption and petty corruption are closely inter-wined and it is difficult

⁷ *Transparency International (2009), Integrating Human rights in the Anticorruption Agenda: Making the Connection, International Council on Human Rights policy, available at, <http://www.ichrp.org/files/reports/40/131_web.pdf > (accessed 20 August 2021).*

⁸ *Ibid.*

⁹ *Supra note 2.*

¹⁰ *See Supra note 2.*

¹¹ *The prospective researcher, since 2009 till now, has been working as corruption crimes investigator and prosecutor at SNNPRS ethics and anti-corruption commission and the general attorney had experienced to ample of corruption criminal cases in different high courts in the region, which in turn indicate the prevalence of corruption in the region as a result highly affect the enjoyment of human rights of various kinds.*

to address one and not the other.¹² In this regard, petty corruption, ‘corruption involving small sums of money and typically more junior public officials’¹³ which includes ‘handing over small amount of money or other small amount of gift in order to get a junior public servant to actually do his/her job’¹⁴ is ‘characterized as an everyday low level abuse of power that citizens and business persons encounter.’¹⁵ As the core objective of this study is to investigate the impact of corruption particularly (grand corruption) on enjoyment of human rights in SNNPRS, the researcher argues that corruption negatively affects all types of human rights, mainly socio-economic rights. To this end, in order to bring the issue of negative impact of grand corruption in to front line of the fight against corruption in the region at hand, the corruption crime cases manifesting such impact, which are entertained by the then ethics and anti-corruption commission and currently by the General Attorney of the region at stake, will be well assessed and substantiated with.

1.2 Statement of the problem

The issue of Corruption in Ethiopia is a serious socio- economic as well as political problem. It seriously endangers the enjoyment of all sorts of human rights mainly socio-economic rights directly. Taking this fact in to account, the country is the signatory of the UN convention against corruption, the AU convention against corruption, and consequently adopted various anticorruption legislations at the federal as well as regional level. However, such conventions and national legislations as well as other measures in the country and the region at stake have shortcomings in that they are failed to address corruption as a human rights issue.

Due to this fact, the straggle against corruption in the region particularly, inlight of human rights had resulted in ineffectiveness of such effort, challenging the enjoyment of human rights in one or the other way.

¹² World Bank (1998), *Anticorruption report of Ethiopia: Report of a World Bank mission to support the program of the Federal Democratic Republic of Ethiopia to improve economic governance and to combat corruption*, available at, <http://documents.worldbank.org> (accessed on 20 sept.2021).

¹³ *ibid.*

¹⁴ *Supra note 10.*

¹⁵ *Ibid.*

Therefore, this study endeavors to upraise the impact of corruption on the enjoyment of human rights analyzing anticorruption instruments the corruption cases entertained by SNNPRS ethics and anti-corruption commission and justice bureau of the region.

1.3 Objective of the study

1.3.1 General objectives

The overall objective of the study is to critically assess the impact of corruption on the enjoyment of human rights taking in to account the corruption cases entertained by SNNPRS ethics and anticorruption commission and justice bureau.

1.3.2 Specific objective

Examine; how corruption affects the enjoyment of human rights in-light of in Ethiopia in general and in the region at stake (SNNPRS) in particular;

- i. Analyze the legal frameworks governing the fight against corruption; whether they address corruption as human rights issue in Ethiopia in general and in the study area in particular;
- ii. Examine the effectiveness of the existing anticorruption legal and institutional frameworks in relation to combatting corruption ;
- iii. Elucidate on the phenomenon of corruption and examine its effects focusing on some specific socio-economic human rights in the region;

1.4 Research question

In order to resolve the research problems and achieve the study objectives, the study will attempt to answer the following specific research questions:

- i. How corruption violates or affects the enjoyment of human rights? If so which human rights are more prone?
- ii. Do the existing anticorruption legislations address corruption as a human rights issue?
- iii. In what manner do the human rights principles be tools for the effective anticorruption efforts?
- iv. Is an integral human rights approach necessary for fighting against corruption and full realization of the enjoyment of human rights?

- v. Who is/are victim/s, in the incidences of corruption and what remedies what remedies in existing legislations?

1.5 Methodology of the study

The study is doctrinal and therefore mainly focus on reviewing and analysis of secondary source documents/literatures, internet, journal articles, court cases (corruption case study), particularly cases entertained by SNNPRS ethics and anti-corruption commission as well as the corruption crime cases dealt by justice bureau of the region. In addition, in the midst of the study, in order to achieve the study objective, international, regional and national anti-corruption conventions/legislations, appropriate general comments of treaty bodies and human rights instruments will be reviewed and analyzed.

1.6 Significance of the study

Corruption in Ethiopia, despite its devastating effect on the enjoyment of human rights, the effort to fight it has failed to address it as a human rights issue. Due to this, it has resulted in ineffectiveness of both anti-corruption efforts to fight against corruption and the effort to comply with human rights obligations emanating from international human rights instruments to which Ethiopia is party.

This study therefore is significant in that it tries to bring corruption as an issue of human rights in Ethiopia in to front, particularly, in a region at stake. In other words, this study is significant as it represents an effort in understanding corruption as a human rights issue. It is also significant in that it represents an efforts in understanding corruption as a human rights issue hence this understanding reproduces likewise in seeking a human rights perspective to anticorruption responses in the study area as well as in the country in general. Moreover, it is believed that the study will pave the way to other researchers to further explore the link of corruption and human rights thus helps the policy makers as well as the advocates of both streams to work together.

1.7 Scope of the study

Corruption is a complex and global phenomenon which exists throughout the world, thus the world's community endeavors to defend it in order to lessen its impact. To this end, globally, regionally as well as nationally, different mechanisms have been devised so as to tackle and combat corruption and its evil effect.

However, most of these mechanisms are mainly focus on prevention, criminalizing, asset recovery and international cooperation with respect to the economic aspect of corruption with little or no focus on its impact on the enjoyment of human rights in the world as a whole. The fight against corruption in Ethiopia in general and in the region at stake which this study focuses also follows similar traditional approach.

Therefore, this study mainly confined to assessing the impact of corruption on the enjoyment of human rights, particularly some selected socio-economic human rights, in light of the corruption cases entertained by SNNPRS' Ethics and Anticorruption Commission and the Justice Bureau of the region at hand.

1.8 Literature Review

Anti-corruption agenda and human rights issues for a long have been gone parallel as if they have no nexus in between. However, since recently there are some institutional reports or academic researches which endeavor to highlight the negative relation between corruption and human rights. Among such notable efforts, the international council on human rights policy in collaboration with Transparency International has made is that, it has published a report manifesting such negative relationship between corruption and human rights¹⁶. ICOHRP, in its other report published in 2010, which assessed the challenges possibilities and opportunities in integrating human rights showed that an anticorruption efforts and human rights movements have something to share in common.¹⁷ The other conference report¹⁸ released in 2011, which is organized jointly by Konrad Adenauer Stiftung –Rule of Law Program for Sub Saharan Africa and Network of African National Human Rights Institutions (NANHRI) held at Gaborone, Botswana. In this conference it has been also concluded among other things, that ‘Corruption has always oiled the wheels of exploitation,

¹⁶ *Transparency International, (2009), Corruption and Human rights: making the connection, International Council on human rights policy, available at < <http://www.ichrp.org/files/reports/40//13/-web.pdf>. > (accessed 24 August 2021).*

¹⁷ *Transparency International (2010), Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities, International Council on Human Rights Policy, available at, <http://www.ichrp.org/files/reports/58/131b_report.pdf. > (accessed on August 2021).*

¹⁸ *Konard Adenaver Stiftung and Network of African National Human Rights Institutions (NANHRT), (2011): Stake holder’s conference on corruption and human rights, Gaborone, Botswana, < <https://www.kas.de/doc/kas-22466-1522-1-30.pdf>. > (accessed on September 25 2021).*

violent ethnic conflicts, institutionalized tribalism, cronyism and injustice which to a large extent typify Africa'¹⁹ thus determined that 'the fight against corruption is central to the realization and full enjoyment of human rights for all.' In this regard, the participants of the conference consensually agreed up on that a need to address the destructive, (negative) relationship between corruption and human rights and find ways to mitigate its direct and indirect negative impacts. In this conference it has also been emphasized that corruption highly endangers the human rights of the already vulnerable groups like women, children and minorities. In this regard, in the conference it has been recognized the importance of a human rights approach to the fight against corruption which strengthens public support for anticorruption measures and at the same time strengthens and enhances its perception of the fight against corruption. This manifests that different institutions and individual scholars endeavor to address the issue of the negative effect of corruption on the enjoyment of all human rights focusing on the importance of the human rights approach against the fight against corruption which this study wants to recommend at the completion of it in Ethiopia particularly in the region at hand.

The human rights council ²⁰has also released a report indicating that corruption is negatively linked in to human rights in two different ways; in one way corruption can be a violation of human rights through corrupt practice, on the other hand it can violate human right through anticorruption measures, though this study mainly focuses on appraisal of the first aspect of corruption and its impact on the enjoyment of human rights. The issue of the relation between corruption and human rights recently has not only attract the interest of institutions but also individual scholars like N Kofele-Kale²¹, who has explored the relationship between corruption and human rights by proposing the right to be free from corruption as human rights. As kale, it so important to raise corruption as crime of universal interest as a result it will be under the jurisdiction of international law and so that it entails individual criminal responsibility and punishment. Another scholar, Kumar has proposed similar approach with a slight difference, that is human rights approach to combat corruption.in the mean time he also advocates the right to be free from corruption as human

¹⁹ *Ibid.*

²⁰ *Supra note 15.*

²¹ N Kofele-Kale, (2000), 'The Right to Corruption Free Society as an individual and collective Human Rights: Elevating official Corruption to a crime under International Law' 34(1), 149-147, available at <http://www.jstor.org/stable/40707514>.

rights for citizens in Asia. According to Kumar, ‘the right to be free from corruption, has to be enshrined in the State’s constitution.’²² Ogundokun²³ in his part proposed similar approach with Kumar in that he promoted human rights approach in fighting against corruption but deviates, in elevating corruption crime in to the status of crime under international law. Birhanu also proposed and devised and also re-advocated that ‘the fight against corruption should be set as a center of human rights discourse by elevating corruption free service as a human right as one of the measures against corruption.’²⁴ In addition, he also proposed that ‘the right to corruption free service must be recognized and be a protocol to the main human rights instruments under regional and international human rights systems.’²⁵ In Ethiopia, despite few efforts made to address the issue of corruption from human rights point of view, it was mostly unexplored thus the literature is scant and the human rights approach against fighting corruption has not yet been explored. In this regard, the purpose of this study is to explore avenues for the possibility of adopting such noble approach in Ethiopia focusing on analyzing corruption cases entertained by SNNPRS EACC and attorney general of the region at hand adopting the view of human rights approaches of C Kumar. I.e. a reinforcement of the guarantee of human rights, as well as the proposal for a freedom from corruption as human right.

1.9 Limitations of the study

As mentioned elsewhere in this thesis, corruption crime has been viewed in light of its economic effect responded in this regard by criminalizing and penalizing such act but seemingly keeping silent in defining the relationship between corruption and human rights as if corruption has nothing to do with human rights issue. On the other hand, this study, as mentioned above, mainly focuses on exploring such relation and reflecting the impact of corruption on the enjoyment of human rights thus in this regard, shortage of sufficient literature showing with the negative relation of

²² CR Kumar ‘corruption and human rights’, available at www.flonnet.com/fl1920/stories/20021011008607500.htm (accessed 28 August 2021).

²³ O. Ogundoku (2005). ‘A Human Rights Approach to combating Corruption in Africa: Appraising the AU Convention using Nigeria and South Africa, LLM Thesis, Center for Human Rights, Faculty of Law, University of Pretoria.

²⁴ B.Adugna (2011), ‘Rethinking International Anticorruption Conventions: Advancing Corruption Free Service as A human Rights. LLM Thesis, School of Graduate Studies, School of Law, Addis Ababa University.

²⁵Supra note 27.

corruption and human rights challenging. Additionally, due to financial and time constraint, the study will be limited to corruption crime cases entertained by the then South Nations Nationalities and peoples Regional States' Ethics and Anti-Corruption Commission and currently, corruption crime cases entertained by the General Attorney of the region at stake.

1.10 Ethical consideration of the Study

This study is mainly desk top based research which will draw knowledge and analysis from literature, regional and anticorruption and human rights instruments, national constitution, criminal law legislations, national anticorruption legislations. In addition, other relevant criminal law instruments will also be consulted. The author of this thesis will nevertheless, appreciate all sources of information referred to in the study. Hence, the researcher doesn't intend to carry out any interview or questioner from any source.

1.11 Chapter overview

This study consists of four chapters, of which chapter one highlights the general introduction and review of the existing literature relevant to the study. Chapter two deals with concepts, causes and consequences of corruption and its linkages with specific human rights. Whereas chapter three deals with international, regional as well as national initiatives and legal frameworks dealing with combating corruption and discusses and analyzes the relationship between corruption and human rights hence suggests the novel approach in fighting against corruption at the same time, enhance the protection and promotion of human rights as a result guarantee the enjoyment of human rights. In this regard corruption crime cases entertained in the region as well as efforts and reports relevant to the study, as much as possible will analytically be assessed in this chapter. Finally, chapter four consists of conclusion and recommendations followed by bibliography of the sources appreciated at the end.

Chapter Two

2 Corruption its causes, consequences and its linkage with specific human rights

2.1 corruption, its causes and consequences

2.1.1 Definition of corruption

As mentioned earlier Corruption exists throughout human history. It is a complex and “global phenomenon”²⁶ which has been experienced throughout the world’s countries either in developed or developing. In other words, corruption is a global concern which devastates the efforts of the world’s community to protect and promote the human rights; by lessening or diverting the focus or the whole resource allocated to that effect.²⁷ Though it commonly affects the whole community of the world, it has however not been consensually defined yet. To this day, there is no single, consistent and recognized definition of corruption at the international level. Remarkably, even the United Nations Convention against Corruption²⁸ does not provide a definition of corruption, even though the purpose of this Convention is specifically to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, and to promote and support international cooperation in the prevention of and fight against corruption. However, according to the World Bank’s definition, corruption means “abuse of public or corporate office for private gain.”²⁹ In other words, “the use of this definition excludes the incidence of corruption in the private sector, and it focuses exclusively on corruption happening in the public sector.” Transparency International, which is the global civil society organization leading in the fight against corruption,³⁰ in its part defined corruption as “the abuse of entrusted power for the private

²⁶ *Supra note 1.*

²⁷ *Supra note 2.*

³¹ *The United Nations Convention against Corruption entered in to force in 2005, available at <http://www.unodc.org/documents/treaties/UNCAC/publications/convention/08-50026-E.pdf>, (accessed on Oct 20, 2021).*

²⁹ *Supra note 2.*

³⁰ *Transparency International, Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities, International Council on Human Rights Policy (2010), Geneva, Switzerland.*

gain.”³¹ This is a broader definition which encompasses a wide range of different behaviors. Unlike the provisions of criminal law, which determine specific offences, the above-mentioned definition is more open and more frequently utilized one, which is broader in that it does not delimit incidence of corruption to the public sector alone hence, it considers the occurrence of corruption in the other sectors too. In this regard, this researcher does not deem it necessary for the purposes of to explore and investigate as well as establish a clear-cut definition of corruption rather throughout this paper, the definition ‘the use of public office for private gain, or in other words, use of official position, rank or status by an office bearer for his/her own personal benefit’³² is mostly applied. Instead of trying to deeply explore its definitional aspect, the thesis mainly focuses on appraisal of the link between corruption and the enjoyment of human rights, for which is the overall objective the thesis at hand. Whatsoever the definition of corruption may be, it has social, economic, political as well as human rights implication in which this paper focuses on and tries to magnify its negative impact in to front so that endeavor contribute pave the way that the stake holders address the issue of negative impact of corruption on the enjoyment of human rights, indeed its impact will be dealt with in the following part of the paper.

2.1.2 Causes of corruption

The causes of corruption can be of diverse. The ‘causes and actors of corruption are multifaceted and complex as its types and features are’³³ and the available literatures also confirm that the causes of corruption are diverse and depend on the different contextual environments. In this regard, according to study conducted by Transparency International that corruption is raising in a more and more sever ways due to the weakening of social values, with the broader public interest and social responsibility being subordinated to the enhancement of material status in the personal ethics of many. Economic causes which includes closely linked factors such as increase in wants, constrained supply of public goods and essential services, inflation impairing a given standard of living are most frequently cited causes of corruption.’³⁴ Monopoly of power, lack of transparency

³¹ *Ibid.*

³² *Ibid.*

³³ *Kilimanjaro International Corporation Limited, (2013), Ethiopia Second Corruption Perception Survey, the Federal Ethics and Anti-corruption Commission of Ethiopia*

³⁴ *D.Fantaye, ‘Fighting corruption and Embezzlement in third World Countries’, 68 Journals of criminal Law, (2004), p.170-176, available at <https://www.semanticscholar.org> > paper (accessed on Sept 20, 2021).*

and accountability mechanisms³⁵, lack of punitive measures and poor incentive structures are also the causes of corruption.³⁶ In addition, lack of transparency and accountability in the public integrity systems are contributing factors for corruption.³⁷ In circumstances where political power is monopolized by a few group, decisions will always be made in way that give an advantage or favor to that group or affiliated ones thus the rights of others are unduly disfavored or even lost as well as the public resources are often plundered for the personal gain of certain or few public officials³⁸. Societal attitudes fostering corruption are also diverse.³⁹ For instance, in many cultures particularly where poverty is overwhelming, allegiance to personal loyalties such as one's family or ethnic, religious, or socio-economic identity outweighs allegiance to objective rules. 'Securing advantage through patronage systems rather than through formal channels is quite common.'⁴⁰ Similarly, low legitimacy of government, dominance of political party or ruling elite over political and economic process or exclusion of marginalized or poorly organized groups from the same, creates incentives for those disadvantaged by the system to operate outside of it.⁴¹ As human nature is imperfect, corruption will exist in all human endeavors. Selfishness and greediness are the constituting elements of human imperfection which lead to corruption. As noted by Ringera in a speech delivered at the Commonwealth lawyer's conference, the causes of corruption are economic,⁴² institutional, and political or societal. The economic causes of corruption are related to pecuniary considerations, representing corruption that is need-driven as opposed to greed driven. This assertion is further confirmed by TI in attributing poverty and low salary as causes of corruption. Increase of wants and inability to maintain one's family lives forces officials to compromise public trust and honesty for some fringe benefits. Institutional causes of corruption include monopoly and wide discretionary powers for public officers, poor accountability, lack of

³⁵ *Ibid.*

³⁶ *Supra note 37.*

³⁷ *Supra note 37.*

³⁸ *Enste, Dominik; Heldman, Christina (2017): Causes and consequences of corruption: An overview of empirical results, IW-Report, No. 2/2017, Institut der deutschen Wirtschaft (IW), Köln, available at < <https://www.econstor.eu>>IW-Report-2017-02.pdf > (accessed on 20, Sept 2021).*

³⁹ *Ibid.*

⁴⁰ *Supra note 4.*

⁴¹ *Ibid.*

⁴² *Supra note 37.*

effective and efficient enforcement of the law, absence of institutional mechanisms to deal with corruption, existence of a weak civil society, and the absence of press freedom.⁴³

2.1.3 Forms of corruption

As corruption is complex in its nature from its definition to the form it manifests itself (its forms) i.e. just as it is difficult to have an all-embracing and accepted definition of corruption, so it is in accepting the forms in which it manifests. Different organs categorize corruption depending on the perspectives from which they view. In this regard, a most comprehensive categorization of corruption has been formulate by UNODC as part of its Anti-Corruption Toolkit⁴⁴; in which this paper follows similar approach for the purpose of this research and meanwhile some other categorizations if any will also be consulted and noted when necessary. According to UNODC, corruption can be of “grand” and “petty” corruption. Thus, ‘grand corruption is corruption that pervades the highest levels of a national Government, leading to a broad erosion of confidence in good governance, the rule of law and economic stability.’⁴⁵ In other words, grand corruption refers to “corruption that involves substantial amount of money and usually high level officials”⁴⁶ whereas, ‘Petty corruption can involve the exchange of very small amounts of money, the granting of minor favors by those seeking preferential treatment or the employment of friends and relatives in minor positions.’⁴⁷ Moreover, the most critical difference between grand corruption and petty corruption is that the former involves the distortion or corruption of the central functions of government, while the latter develops and exists within the context of established governance and social frameworks. This type of corruption is typically characterized as an everyday low level abuse of power that citizens and business people encounter. It is also said to be ‘low level or administrative corruption which involves small sums of money and particularly junior officials.’⁴⁸

⁴³ *Supra note 41.*

⁴⁴ UNODC, *The Global Program against Corruption: UN Anti-Corruption Toolkit (2004)*, available at http://www.unodc.org/pdf/crime/corruption/toolkit/corruption_un_anti_corruption_toolkit_sep04.pdf, (accessed on Oct 15 2021).

⁴⁵ *Ibid.*

⁴⁶ *Supra note 2*, p.8.

⁴⁷ *Supra note 47.*

⁴⁸ Herrera, H. ‘Bribery and the Nature of Corruption,’ available at <http://www.msu.edu/~herrer20/HR-Jul03.pdf>, (accessed 19 Nov 2021).

Another classification established by UNODC is “active” and “passive” corruption, which are criminal law terminologies, “may be used to distinguish between a particular corrupt action and an attempted or incomplete offence.”⁴⁹ For example, “active” corruption would include all cases where payment and/or acceptance of a bribe had taken place. ‘It would not include cases where a bribe was offered but not accepted, or solicited but not paid.’ In fact, in the formulation of comprehensive national anti-corruption strategies that combine criminal justice with other elements, such distinctions are less critical. As to UNODC, the above noted classification of corruption, (grand or petty) is based on the level of authority involved and the amount of money taken due to such corrupt act whereas the second (active-passive) classification is based on particular corrupt action and an attempted or incomplete offences. UNODC, as part of its Anti-Corruption Toolkit,⁵⁰ in addition to the above mentioned categorization, it has also classified as bribery, embezzlement, theft and fraud, extortion, abuse of discretion, favoritism, and clientelism which indeed “can be grouped under either grand corruption or petty corruption depending upon the amount of money lost and the sector where it occurs.”⁵¹ These are specific criminal acts that constitute a normative element that determine what is considered as an abuse of entrusted power for private gain which . Besides the above categorization of corruption, it has been distinguished by different authors as “disorganized corruption”⁵² which refers to government agents who control access to resources and services and act independently and also capriciously in order to maximize their own bribe revenue and “organized networks of corruption”,⁵³ on the other hand, refers to the chain of government officials who act in a coordinated manner in breaking the law from which each official will earn different sum of money depending on the degree of influence he/she has on the process. Corruption has not only been classified as above but also distinguished as “individual corruption” which has to do with individual misconduct in public office versus “systemic corruption” which on the other hand, occurs when the administrative system itself transposes the

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ B.Gebeye, (2015), ‘the Legal Regime of Corruption in Ethiopia: An assessment from an International perspective, Oromiya Law journal, vol.4, No.1, available at <https://www.ajol.info/olj/article>, (accessed 20 Nov, 2021).

⁵² *Ibid.*

⁵³ *Ibid.*

expected goals and mandate of the organization. Such corruption is both complex and dangerous for the organization and the society at large.

2.1.4 Consequences/impacts of corruption

The relationship between corruption and human rights is much less understood and only beginning to be seriously explored. However, in this thesis hopefully contributes to ongoing efforts being made to understand the relationship between corruption and human rights in Ethiopia particularly in the context of the region at stake (SNNPRS). Corruption is a complex social and legal phenomenon with multi-dimensional impacts and effects. It spreads everywhere in this world, ‘where there is no society free of this disease, which affects person and individuals on their personalities, properties, rights and freedoms.’⁵⁴ It is virtually the concern for all countries regardless of their economic development, political system, religion or ethnicity which however, does not mean that the degree /magnitude of severity of its occurrence is uniform. i.e. corruption exists whether the countries are developed or developing, ‘however, in the latter countries it is endemic due to the absence of essential checks and balances between the different centers of power.’⁵⁵ Due to this, particularly, in developing countries, ‘corruption has a detrimental effect on economic development by generating considerable distortions and inefficiencies and it also impedes the growth and effective utilization of countries economic potential.’⁵⁶

Corruption affects human rights in variety of ways. For instance, ‘the right to food water, education, health, and the ability to seek justice can be violated if a bribe is required to gain access to these basic rights.’⁵⁷ And when such ‘bribe/corruption is committed by higher level public officials, can siphon millions of dollars of the country’s wealth, which in turn handicaps the government from

⁵⁴ Abukari, M. (2011), ‘the Impact of Corruption on Human rights and the Legal mechanisms for its compacting: The Case of Jordan, *Mediterranean Journal of Social Science*, v.24, available at <https://www.richtmann.org> article. (Accessed on 20 Nov, 2021).

⁵⁵ Barreto, R. (2001), *Endogenous Corruption, Inequality and Growth : Econometric Evidence No 2001-2*, School of Econometrics Working Paper, University of Adelaide, School of Economics, available at <https://econopapers.repec.org> > RePEC, Adelaide, pdf (accessed on 20 Nov, 2021).

⁵⁶ Raul Wallenberg Institute of Human rights and Humanitarian Law, ‘The Nexus between Anticorruption and Human rights, available at <https://rwi.lu.se>publications> , (accessed on Nov 20 2021).

⁵⁷ GATHII, J. ‘Defining the relationship between human rights and corruption’, available at <https://scholarship.law.uppen.edu> > iss1 (accessed on Dec 9, 2021).

fulfilling its duty to protect, ensure and respect the rights guaranteed to its people.’⁵⁸ Corruption has adverse impact on investment, both domestic and foreign direct, which is considered to be particularly harmful for a developing economy. This may be manifested by providing bribes before any investment takes place or upon entering into negotiations for the establishment of an enterprise. Such payment of bribe, which is otherwise unnecessary cost to the investment at hand, may be of ‘Procurement of leases for land and buildings; permission to engage in activities such as production, transport, storage, marketing, distribution, import and export; obtaining connections for water, gas, electricity, and telephone; having access to telex, fax and e-mail facilities and so on; can involve payment of substantial bribes at various stages.’⁵⁹ As discussed above, the available researches reveal that corruption harshly affects socio-economic aspect of the world’s community at large particularly developing ones but the endeavours showing the link between corruption and human rights are rare. However, there have been some efforts showing the harsh effect/impact of corruption on human rights,⁶⁰ i.e. violation of human rights of individuals. As noted earlier, corruption can occur in many forms and contexts, and as it is true that the definition and its forms is complex, it is also apparently complex to identify all of the human rights that can be violated by corruption. However, it is possible to give some examples of human rights that can be negatively affected by the incidences of corruption. For instance, ‘if there is corruption in the education sector, in the justice sector, in the health sector or the social welfare sector; the right to education, the right to justice and fair trial, the right to access to medical service or the right to food can consecutively be violated.’⁶¹ In addition, ‘the principle of non-discrimination can be affected if a person has to bribe someone in order to get a public merit or access to a public service which means, it is difficult to find a human right that cannot be violated by corruption.’⁶² As noted by OHCHR, this view is supported by many of the responses to the questionnaire formulated by different stakeholders. The responses make it clear that ‘corruption has a negative impact on the enjoyment of human rights.’⁶³

⁵⁸ *Ibid*

⁵⁹Myint, U. (2000), ‘Corruption: causes consequences and cures,’ *Asia Pacific Development Journal*, vol.7.No.2, available at, <https://www.unescap.org> , (accessed on 20 Nov, 2021).

⁶⁰ *Ibid*.

⁶¹*Supra note 60.*

⁶² *Supra note 62.*

⁶³ *Supra note 62.*

According to such responses, a wide range of human rights can be violated by corruption. These rights in general include ‘economic and social rights, such as the right to work, the right to food, the right to housing, the right to health, the right to education, and the right to public services; the right to development; and the principle of non-discrimination; as well as civil and political rights, such as the right to a fair trial and the right to public participation.’⁶⁴ Despite the fact that the literature manifesting such negative impact of corruption on human rights is rare, however since recently, there are some efforts which show the adversary link between corruption and human rights, which means when there is persistence of corruption in the public sector, there will undoubtedly be violation of various human rights. In this regard, as mentioned earlier, corruption negatively affects almost all human rights of every individual thus needs further exploration so as to change the usual/traditional approach that corruption-human rights nexus has been viewed by the stake holders of each stream. To this end, in the upcoming section the general nexus between corruption and human rights as well as the impact corruption has on thematic human rights will be upraised one after the other.

2.2 Linking Acts of corruption with specific human rights

As has been highlighted above literature establishing the relationship between corruption and human rights is rare. However, since recently, there have been some efforts being made and a number of authors mention the serious socio-economic impact corruption imposes to a nation and its population, thus directly or indirectly resulting in violation of fundamental human rights and freedoms.⁶⁵ In the subsequent section, this thesis examines more closely the ways in which corrupt practices may violate specific human rights. Though each right with respect to the impact of corruption is viewed and addressed separately, the interdependency of human rights is kept in mind. That means, in practice, corruption is likely to affect the enjoyment of all human rights directly or indirectly.⁶⁶ In this regard, ‘failure to protect for example, rights associated with political participation, may have an impact on several economic, social and cultural rights by

⁶⁴ *ibid*

⁶⁵ OHCHR, (2016), ‘Human rights and countering corruption’, Geneva Academy, available at <https://www.geneva-academy.ch/-/files> <PDF (accessed on Dec 17, 2021)

⁶⁶ *Ibid.*

affecting the design and implementation of social policies and hence the enjoyment of socio-economic rights.’⁶⁷

2.2.1 Corruption as a violation of human rights

Corruption negatively impacts the enjoyment of human rights and can directly constitute a violation of such rights in concrete cases.⁶⁸ That means acts of corruption may affect the people or the society in various circumstances particularly, such acts may amount to prohibited forms of discrimination or violate the human rights of individuals as well as it negatively affects collective rights too.⁶⁹ Pervasive corruption weakens the very accountability that protects human rights, contributing to impunity and impeding law enforcement.⁷⁰ In this regard, various human rights for instance, the right to equality and nondiscrimination are violated by the act of corruption as it creates discrimination in access to public services in favor of those who are able to influence the authorities to act in their personal interest. Some civil and political rights like the right to due process, right to political participation, to information and the rights to property are highly risked to the acts of corruption more than others.⁷¹ However, this does not mean the other rights are immune from being risked to violation by corruption because as highlighted above, all human rights are interdependent and even indivisible in that the violation of one right may affect the other. In other words corruption affects the class of human right directly and the other category indirectly. Therefore, corruption negatively affects the human rights of individuals and the collective rights, which will be indicated in the following sub section in detail.

2.2.1.1 Civil and political rights

Now it becomes clear that the civil and political rights like the right to life, liberty and security of a person is directly and indirectly at risk from corruption. For instance, victims, witnesses or whistleblowers of corruption may be exposed to unlawful killings, acts of torture, arbitrary arrest detentions or other forms of deprivations of liberty which would prevent disclosures regarding

⁶⁷ *Supra note 77*

⁶⁸ *Bacio Terracino (2008), Corruption as a violation of human rights, available at <https://papers.ssm.com>so13>> papers (accessed on Dec 17 2021).*

⁶⁹ *Supra note 77.*

⁷⁰ *Ibid.*

⁷¹ *Supra note 80.*

corruption or its consequences.⁷² Likewise, large scale diversion and misallocation of resources through embezzlement and bribery may diminish the state's ability to deliver goods and services that are essential to individual survival and well-being. The payments of bribes to avoid the enforcement of government regulatory standards may also expose people to physical risks whether from unsafe buildings, unsafe consumables or environmental hazards.⁷³ Furthermore, the bribery of law enforcement officials and members of the judiciary may directly subvert an individual's right to liberty, particularly, the right to challenge the ground for arrest and detention in court; and/or obtain compensation for wrongful detention. In addition, due process rights and the right to remedy are jeopardized in several ways when justice administering public officials are involved in corrupt act. Strictly speaking, the bribery of judges directly violates the human right to hearing before an independent and impartial tribunal. In such a case, a judge who solicits or accepts a bribe is dependent because he/she is subject to external interference and partial by conducting unfair hearings. For example, a decision to withhold documents from the defense is likely to violate the fair trial requirement, the principle of equality of arms and the right to be informed promptly and in detail of the charge. The principle of equality and nondiscrimination, which are the fundamental principles in human rights; and are the principles which every individual is equal before the law and has the right to be equally protected by law in an equal basis that has been affirmed in all main human rights instruments/treaties.⁷⁴ According to these principles, every individual is entitled to be treated equally by public officials, however when a person offers a bribe to a public official, he/she acquires a unlawful preferential treatment from that official and on the hand the one who doesn't bribed an official will not be treated equally or will be discriminated which in turn is violation of human rights of equality before the law. In a judicial proceedings, corruption also violates the right to equality before the law and it gives rise to a separate violation of the right to remedy⁷⁵ like an effective and equal access to justice.

⁷² Supra note 77.

⁷³J. Bacio Terracino, Julio, (January 2008), *Corruption as a Violation of Human Rights*, International Council on Human Rights Policy, forthcoming, Available at SSRN <https://ssrn.com/abstract=1107918> , (accessed on Dec 19 2021).

⁷⁴ UDHR 10 Dec 1948 Art 1, Art 2 and Art 10, ICCPR Art 12, ICESCR, CRC Art 2, CEDAW Art 2,

⁷⁵ Supra note 77.

Corruption also violates the right to political participation by undermining the accountability of decision makers in that as discussed above, when corruption is prevalent, those in a public positions are less likely to act in the interest of the public,⁷⁶ which in turn leads to damages to the legitimacy of democratic regimes and loss of public support for democratic institutions.⁷⁷ It also affects the right to the freedom of expression.⁷⁸ It also threatens specific human rights to political participation like the manipulations of elections, referenda, or plebiscites through the bribery of voters directly violates Art. 21(1) and (3) of UDHR and Art 25(a) and (b) of ICCPR. When efforts to combat corruption may be enhanced by measures to promote the freedom of expression; conversely, human right to information are at risk from corruption.

Corruption also hampers the human rights of /the enjoyment of property rights/ of individual when for example, a public official removes a person's ownership title as the quid pro quo for a bribe or restricts the enjoyment of possession, violates that person's right to property under Article 17(2) of UDHR and other relevant regional or national laws. In general, civil and political rights are negatively affected/ violated by the acts of corruption.

2.2.1.2 Economic, social and cultural rights

In the immediate sub section of this chapter above it has been discussed that how and in what situation corruption affects the civil and political rights of individuals enshrined in the international human rights instruments. This section proceeds discussing the impact corruption has in the enjoyment of economic, social and cultural rights which have been recognized in the mentioned international human rights instruments. Hence, corruption has a deteriorating negative impact on afore mentioned human rights in that it violates or leads to violations of specific economic, social, and cultural rights.⁷⁹ It is hence, a threat to an adequate standard of living and to an education. As it is enshrined in Art.25 of UDHR and elaborated for under Arts, 11 and 12 of ICECSR which together entitle everyone to adequate food, water, housing, and health. The right to education has also been provided for under Art. 26 of UDHR and Art. 13 of ICESCR. As provided, these socio-economic as well as cultural rights are entitlements of individuals in one hand and impose

⁷⁶ *Supra note 85.*

⁷⁷ *Supra note 85.*

⁷⁸ *Supra note 79, pp.18.*

⁷⁹ *Supra note 79, pp. 20.*

obligation (duty bearer) on the state on the other hand, however, they are violated in different manner. For example, public officials may misappropriate funds intended for food, water, health, housing and education programmes or they may divert materials bought for those programs to sell or use themselves.⁸⁰ As a result the government is less able to render/to provide goods and services of adequate quality and quantity for the community. In this regard, schools and hospitals have fewer supplies; teachers and doctors are less paid thus are more likely to seek bribes⁸¹; and food or financial assistance programs have less to buy or distribute. Therefore, misappropriation may lead to violations of duty to respect and to fulfil human rights and indirectly discriminate against those who are unable to obtain access to food, water, health, housing, and education by their own means.

Socio-economic rights of individuals may be arbitrarily denied by corrupt transactions in various ways; for instance, “bribes may be paid, influence may be traded, or offices may be misused to obtain accesses to public services, such as medical care, school places or connection to town water lines.”⁸² In such circumstances, when the state officials deny afore mentioned socio-economic rights due to corrupt practices and the state fails to prevent, investigate and punish such corrupt acts by its officials or third parties breaches its duty to protect at the same time duty to respect and fulfil those rights(socio-economic and cultural rights).⁸³

The incidences of corruption affect these class of human rights not only directly but also indirectly, say for example, in exchange for bribes or under pressure from corrupted third parties, regulatory bodies may ignore unsafe work practices; they may even prematurely authorize the sale of drugs or medical services⁸⁴; or environmental officers may fail to enforce standards that protect water catchments or the farmlands from the contamination thus result in indirect challenges to the human rights and the breach of the human rights obligation of the state. The economic, social and cultural rights in the provisions of public goods and services are impaired by the acts of corruption for instance, in the education sector, the rights of children to free education, which is provided for

⁸⁰ OHCHR, 2016, *Human Rights and Countering Corruption*, Geneva Academy, available at <https://www.geneva-academy.ch> >- files, (accessed on Dec 17, 2021).

⁸¹ *Supra* note 79, pp. 10.

⁸² *Ibid.*

⁸³ Anne Peters, *Corruption as a violation of international human rights*, *European Journal of International law*, vol.29 no.4, available at, <https://academic.cup.com/ejil/article/29/4/1251/5220164>, (accessed on 26 Dec 2021).

⁸⁴ *Ibid.*

under art. 26(2) of UDHR will be affected and compromised when teachers or school officials demand bribes in the exchange for enrolment⁸⁵ and as a result, such right will be violated and as this view is argued for throughout this paper. In this part, it has been revealed that corruption negatively affects the human rights of all types. In the following section the impact of corruption on the enjoyment of specific socio economic human rights in SNNPRS will be assessed and addressed as a human rights issue.

2.3 Corruption and the specific human rights in SNNPRS

As stated elsewhere in this thesis, corruption is a pervasive phenomenon in most of the world's nations irrespective of their economic status face, though the degree/ severity of such phenomenon varies from nation to nation. In other words, corruption exists in developed and developing countries, although its nature, extent, and overall dynamics vary greatly.⁸⁶ As studies in the area manifest that the devastating effect of corruption deepens, in the case of least developed or developing countries like Ethiopia. In this regard, corruption as identified in various studies, is one of the principal impediments to economic development, social security, service delivery, and good governance in Africa.⁸⁷ Some countries in Africa, Asia and South America show alarming corruption manifestations.⁸⁸ Due to the actual reality mentioned above concerning the effect of corruption in the world, the states and international organizations are stepping forward in to fighting such an evil act of corruption by taking measures like the devising of international anticorruption convention, the regional anticorruption conventions and the national anticorruption initiatives and legislations so as to combat corruption. As has also been said in this thesis above, Ethiopia, after adopting the federal state structure, moved on to the overall socio-economic and political reforms. One of such reform was the Civil Service Reform Program (CSRP). The Ethiopia

⁸⁵ *Supra note 19, supra note 79, pp.10.*

⁸⁶ *Ibid.*

⁸⁷ Graycar, Adam (2015) *Corruption: Classification and analysis, Policy and Society vol. 34 (2), 87-96*
<http://dx.doi.org/10.1016/j.polsoc.2015.04.001>

⁸⁸ Asongu, S. A. (2013). *Fighting Corruption in Africa: Do Existing Corruption-Control Levels Matter? International Journal of Development Issues, 12, 36-52, <https://doi.org/10.1108/14468951311322109>*

government initiated such reforms to inspect the overall management system and operation of the civil service at all government levels.⁸⁹ The ethics sub-program therefore, was part of the National Civil Service Reform Program (NCSRP), designed primarily to combat corruption and improve service delivery gave rise to establishing the Federal Ethics and Anti-Corruption Commission (FEACC) in May 2001. The FEACC is an independent agency of the federal government established with the main objective of striving to create an aware society where corruption will not be condoned or tolerated by promoting ethics and anti-corruption education; Prevent corruption offences and other improprieties, and Expose, investigate, and prosecute corruption, offences, and impropriety.⁹⁰ The commission (FEACC) hence, is mandated to run at the federal public offices and public enterprises including the chartered cities of Addis Ababa and Dire Dawa. As Ethiopia follows federal state arrangement, regional states are constitutionally entrusted with the power to establish their own governmental/public offices or public enterprises mandated within their material scope including to form their own anti-corruption commission.⁹¹ Thus, the region at stake (SNNPRS), as one of 11 regional States and two Chartered City Administrations in Ethiopia's Federal state arrangement has also its own regional public offices or public enterprises including anticorruption commission and other law enforcement agencies, for the purpose of this thesis, only the work of anticorruption commission and Attorney General/Justice bureau will precisely be highlighted. However, before such deal, it is worth mentioning its overall structural arrangement, its economy and population. Thus, SNNPRS, as mentioned above, is one of the regional states with 11 Zones and 6 Special Weredas with estimated population of 19,170,007 according to 2017 CSA projected census⁹²with in an estimated area of 105,887.18 square kilometers.⁹³(Infact the population number and area of the coverage includes the then Sidama and South West region's Zones). This region is located in the Southern part of the country bordered in the North, North East and North West by Oromiya National regional State, in the South by Kenya, in the South West by

⁸⁹ Arsema T. (2010), *Anti-corruption Commission Ethiopia European Commission and the World Bank, a review of the effectiveness of the federal ethics and anti-corruption commission of Ethiopia*, available at <https://www.acauthorities.org/publications/review> (accessed 20, May 2022).

⁹⁰ *Federal EACC Establishment. Proclamation, proclamation No. 433/2001.*

⁹¹ *Supra note 92.*

⁹²

⁹³ *Wikipedia, the Free Encyclopedia, The Southern Nations Nationalities peoples' Regional State.*

South Sudan, in the South East by Oromiya region and in the North East by Sidmma region and its current seat is at Hawassa. As a regional state, a year late the establishment the FEACC in 2001, the regional government has established an independent regional anticorruption agency (SNNPRS EACC) by the proclamation No 48/2002, which has been revised by the proclamation No. 142/2012 with the similar mandate and this time on anticorruption commission of SNNPRS with mandate to fight and combat corruption in the region and previously it's been the body responsible for coordinating the whole anti-corruption works including investigating and prosecuting corruption crimes and improprieties in the region and the commission is currently situated in Hawassa. The commission was previously mandated with objective of striving to create an aware society where corruption will not be condoned or tolerated by promoting ethics and anti-corruption education; Prevent corruption offences and other improprieties, and Expose, investigate, and prosecute corruption, offences, and impropriety similar to its federal ancestor, FEACC despite it is limited to regional material scope. However, from 2016 on, the investigation and prosecution work has been taken away from the commission and the investigation mandate has been granted to the region's General Attorney and police commission by the proclamation No. 177/2019 (SNNPRS General Attorney establishment proclamation). According to this proclamation, corruption crime investigation power is bestowed on the attorney general and the police commission of the region, whereas the prosecution power is bestowed on attorney general which however, has been criticized by many in that it negatively affects the effectiveness of the commission in the fight against corruption though this is not the purpose this study, rather in this section, the study intends to reflect that corruption negatively affects the enjoyment of human rights in the region taking some specific human rights, particularly, socio economic rights in consideration'

As noted above, corruption, internationally, regionally as well as at the national level, its impact multifaceted including its negative effect on the enjoyment of human rights in every part of the world. Moreover, there is an agreement, that corruption has the potential of undermining the enjoyment of human rights in areas, be it economic, social, cultural, civil, or political, however, in this section, the focus will be the impact of corruption on the enjoyment of socio economic rights in the region at hand consulting some relevant corruption cases. As also noted above, the phenomenon of corruption is as old as the human society and it persists in all societies in one or its other form affecting the human rights negatively. In this regard, there are some contemporary

literature arguing for and evidencing that corruption appears to be an impediment to the realization of human rights.⁹⁴ It denies development and quality of life particularly that of the vulnerable groups of the society like women, children, people with disabilities or minorities, when the act of corruption like bribery denies them access to basic services, health and education. Moreover, the right to food, water, education, health, and the ability to seek justice can be violated if a bribe is required so as to access such basic human rights. Above all, the effect of corruption will be more serious in the developing countries like Ethiopia.⁹⁵ The same is true also in the case of Ethiopia in general and the region this study covers in particular. Hence, in this specific section will reveal this reality on the ground referencing to the certain cases having impact on some socio economic rights.

2.3.1 Corruption and the right to education

The right to education, one of the socio-economic human rights guaranteed in several international human rights instruments, notably, in ICESCR.⁹⁶ This right is also incorporated for under the Convention on the Rights of the Child.⁹⁷ The right to education, has two main dimensions; one is the social dimension which affirms the right to receive an education that reflects the aims and objectives stipulated in Article 13(1) of the ICESCR. As concluded in General comment No. 13 that “Education is both a human right in itself and an indispensable means of realizing other human rights or as an empowering right it is a primary.”⁹⁸ In this regard, states are required to make various levels of education available (primary, secondary and higher) which should be easily accessible to all. Education also has a freedom dimension which requires academic freedom and institutional autonomy and implies the personal freedom of individuals or their parents or

⁹⁴ UNHCHR, (2013), *the panel Discussion on the Negative impact of Corruption on the enjoyment of human rights*, available at <https://digitallibrary.un.org/record> (accessed on 12 June 2022).

⁹⁵ *International Human Rights policy and Transparency International, Global Coalition against Corruption, Corruption and Human Rights: Making the Connection*, <https://www.researchgate.net/publication>, (accessed on 15 June 2022).

⁹⁶ *International Covenant On Economic Social and Cultural rights*, Art.13, Art.14. available at

⁹⁷ *Convention on the Rights of the Child*, Art. 28.

⁹⁸ *OHCHR, CESCR General Comment, No. 13, The Right To Education (Art.13)*, Adopted at the Twenty-first Session of the Committee on Economic social and cultural Rights ,Dec, 1999, available at, <https://www.refword.org/pdfid> , (accessed on 17 May 2022).

guardians to choose educational institutions that reflect their educational, religious and moral convictions, and this implies that individuals should be free to establish and direct educational institutions.⁹⁹

Moreover, education should be available, accessible, acceptable and adaptable. By availability the states required to ensure free and compulsory primary education to all, while secondary and higher education must be made available and accessible to all through the progressive introduction of free education.¹⁰⁰ Also educational institutions and programmes must be adequate, and educational institutions and programmes must be equipped with what they need to function (buildings, trained and paid teachers, teaching materials, sanitation, drinking water, etc.).¹⁰¹ As has been discussed above, corrupt practices in the education sector harm the availability of education. Most notably, embezzlement removes resources required to equip educational institutions.¹⁰² On the other hand, accessibility implies that education should be accessible to everyone without discrimination. By accessibility does not only mean physical but also economic access. Thus, all education should be affordable, and primary education should be free.¹⁰³ The, form and content of education programmes should also be acceptable to students and parents in terms of relevance, cultural appropriateness and quality and education should also be adapted to the needs of societies as they change.¹⁰⁴

In this regard, when corrupt practices in the education sector like, embezzlement of funds, illegal registration fees, absenteeism, and examination fraud prevail, one or more elements of the right to education will be infringed and access to education in many ways may be restricted.¹⁰⁵ Children may be requested to make informal payments for services, for example, or required to pay a bribe on admission, or parents may be asked to pay the teacher fees for additional private lessons (covering material from the core curriculum that should be taught during the school day) or for

99 ICESCR Art. 13(3) (4) and General Comment No. 13, Para. 28.

100 ICESCR, Art.13 (2) and the General Comment No. 13, para. 17'

101 ICESCR, Art. 13 (2) and the General Comment No.13, para. 6 (a).

102 ICESCR Art. 2(a).

103 ICESCR, Art. 13 (2) (a), and General Comment No. 13, para.10.

104 General Comment No.13.

105 Supra Note 103.

correcting their child's work.¹⁰⁶ In such cases, access to education is not based on equality but on ability to pay a bribe, which amounts to discrimination and puts vulnerable groups at particular disadvantage because they are least able to pay.¹⁰⁷ In this sense, all corrupt practices that entail the disbursement of money for primary education violate the right to education, because primary education should be free.¹⁰⁸ Corruption that harms the quality of education affects its acceptability. Corruption in procurement affects the acquisition of educational material, meals, buildings, and equipment, and usually lowers their quality.

As a matter of fact, the right to education, imposes obligation on state party that it has to ensure access and availability of education at primary, secondary and higher levels.¹⁰⁹ However, this will be impossible to the state to discharge its human rights obligation emanating from pertinent human rights instruments. This happens, as stated above, when for example, the funds allocated in the sector are misappropriated, which reduces the available resources, infrastructure as well as human and capital resources. Furthermore, heavy school fees are levied on parents of the children who are opted to private schools due to poor educational facilities in public schools where the primary education ought to be free but due to the ignorance or intentional omission of the regulatory organs. In this regard, poor parents cannot afford to pay for their children and may opt to absent them from education, thus, their right to education will be violated.¹¹⁰ Corruption in this sector also manifests itself in the recruitment where underqualified/unqualified teachers are employed due to corrupted recruitment officials. In this regard, the public schools, in the region at hand, especially in the primary level are poorly equipped with educational infrastructures as well as under qualified teachers where the students could not access quality education. As mentioned, the "able parents" opt to choose private schools where the school fee is beyond their capacity to afford. This in turn infringes the right to free education set for under ICESCR Art. 13. In this sense, it has resulted in poor education facilities and teaching materials, hence the state clearly is not complying with its

106 Supra Note 104.

107 Ibid.

108 Supra note 106.

109 Ibid.

110 Supra note 99.

obligation to fulfill the right to education, and thus, the right to education is violated as argued in this section and elsewhere in this thesis.

2.3.2 Corruption and the right to health

The right to health is included in several human rights treaties. Most notably, Article 12 of the ICESCR established the “right to the highest attainable standard of physical and mental health”, defined as the “right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.” This right not only includes healthcare, but also the underlying determinants of health, such as safe drinking water, adequate sanitation, adequate supply of safe food, nutrition, housing, occupational health, environmental health and access to health-related information.¹¹¹ As also identified and confirmed by the socio-cultural committee, in aforementioned General Comment, such right contains the core components, thus, a state must guarantee under all circumstances regardless of its available resources such as access to maternal and child healthcare, including family planning, immunization against the major infectious diseases, appropriate treatment of common diseases and injuries, essential drugs, adequate supply of safe water and basic sanitation, and freedom from serious environmental health threats.¹¹² According to the General Comment, health facilities, goods and services as well as programs must be made available in sufficient quantity.¹¹³ And such facilities must also be accessible to all persons without discrimination. States, therefore, need to ensure that the availability of health goods and facilities are not negatively affected by acts of corruption which, in the health sector, can have mortal consequences.¹¹⁴ This accessibility by itself, as has been enumerated in the General Comment No.14 has, four overlapping dimensions; that is nondiscrimination, physical access, economic access (affordability), and access to information. Hence, the nondiscrimination dimension, presupposes such health facilities, goods and services must be within appropriate physical reach of all people, including vulnerable or marginalized groups. In contrast, health sector corruption can also lead to direct discrimination when healthcare

111 CESCR General Comment No.14, the right to the Highest attainable Standard of Health (Art. 12) Adopted at the Twenty –Second Session of the Committee on Economic, Social and Cultural Rights, (2000).

112 Ibid.

113 Ibid.

114 Supra note 99.

providers and professionals treat patients differently, based on their backgrounds, like the income/economic difference or their personal relationships with medical staff. In the sense of physical access, health facilities, goods and services must be within safe physical reach of all sections of the population, including vulnerable and marginalized groups. If corruption is happened, it leads to decisions that are less favorable to a community, as a result for instance, hospitals or health centers may be constructed in area unreachable to the public, or in unhealthy locations, or in locations inaccessible by public transport. By affordability mean, health facilities, goods and services must be provided by affordable cost. Obviously, affordability of health facilities may be affected by corruption when, for example, health sector workers or officials request fees for drugs that have been provided free of charge by pharmaceutical companies or donor organizations, or demand “informal payments” for treatment. In addition, such health facilities including drugs sometimes are diverted from public health institution to private pharmacies and drugstores corrupt health workers or officials, where the prices of medicines and medical equipments may be doubled or compounded compared to the public health institutions. In such situations, patients may suffer because of inability to afford.¹¹⁵ Moreover, when for example, a person seeking a health service is asked for a bribe, this not only violates his or her right to health but also the principle of non-discrimination, because the bribe places the patient in a position of inequality when compared with others.¹¹⁶ In this regard, vulnerable groups of the society, like women suffer most from corruption in this sector because they tend to seek healthcare for themselves or for their children more often than men, and are more regularly exposed to corruption in the sector.¹¹⁷

Access to information, one dimension of accessibility of health facility which presupposes that patients and the public as a whole should have the right to seek, receive and impart information

115 In this regard, ‘there are ample of evidence/ cases related to the health sector, where (the region at stake), this author works as a public prosecutor. As many case show that the drugs purchased or donated to such public institutions are diverted or misappropriated to the private medical institutions thus, the prices of medicines and medical equipment unpredictably high hence, the patients and their families unable to afford for such medical facilities.’

116 CMI. MICHELSEN INSTITUTE, (2006). WWW.U4.no, Anticorruption Resource center, Corruption in the Health Sector, available at, <https://www.u4.no/publications>, (accessed 15 June, 2022).

117 Ibid.

and ideas.¹¹⁸ States in this regard have an obligation to take measures to ensure that patients or the general public are in a position to make informed choices and select appropriate providers at appropriate prices and standards of quality.¹¹⁹ According to this component of health right, such facilities must respect medical ethics and should be culturally appropriate (acceptable). Among other things, health facilities must be designed to respect confidentiality and improve the health status of those concerned.¹²⁰ States should put in place guarantees that ensure that health professionals do not abuse their position of power and thereby disregard the “acceptability” of the services they provide.¹²¹ Moreover, such facilities must be scientifically and medically of a good quality, however, such quality can be compromised, when for example, regulators are bribed to carry out less rigorous checks or to approve medicines without adequate investigation, or when hospital administrators purchase cheaper, less effective (or even expired) drugs and embezzle the difference in cost.¹²² Thus, states are duty bound to ensure that the quality of health services is guaranteed at all levels of the health sector and that such quality is not negatively affected by corruption. As it is true for other human rights, Corruption also affects the quality of health services and facilities particularly, the quality of medicines resulting on a serious infringement not only of the right to health but also of the right to life.¹²³

The right to health is usually understood in terms of the availability, accessibility, acceptability, and quality of the public health and health care facilities, goods, services and programmes. These facilities and goods and services have to be available in sufficient quantity within the state accessible to everyone without discrimination, and scientifically and medically appropriate and of good quality.¹²⁴ Hence, most corruption cases affect several of these elements of the right to health

118 Supra Note 120.

119 General Comment No. 14.

120 Supra Note 99.

121 Samuel, R., Corruption as a violation of our socio-economic rights, available at, <https://www.modernghana.com/news/576271/corruption>, (accessed 15 June 20022).

122 Ibid.

123 Supra note 105.

124 Magnus Lindelow and Pieter Sernells, The performance of health workers in Ethiopia, Social Science and Medicine, “Vol. 62(9), May 2006, p. 2225-2235.

particularly in the case of misappropriation of public funds available for health sector.¹²⁵ When in this manner the resources and facilities available are drained or misplaced/embezzled may be for instance, through procurement fraud, less funding will be available to pay salaries and fund operations and maintenance leading to demotivated staff as well as lower quality of health care and services.¹²⁶ Thus, in this sense the state violates the human rights obligation to respect provided for under the International Covenant on Economic, social and Cultural rights.¹²⁷ This may be manifested when its officials misappropriate, embezzle or steal funds or divert drugs to the black market that have been allocated for public health sector in the expense of the poor. Such corrupt practices in the health sector have the negative effect on the health rights of individuals or the community in general particularly, the poor in that it prevents the availability, accessibility and affordability and quality of drugs and hence, the right to health will be violated.

When we come to the region which this research is conducted, the health sector corruption is common particularly in relation with the distribution of medical supplies (purchasing or marketing). In this regard, there have been lots of cases dealt with different zonal high courts of SNNPRS. To mention some, the case of SNNPRS Ethics and Anticorruption Commissions public prosecutor vs. Alemayehu Abreham and others. In this case, the accused were public officials working Kachbira Wereda finance office. They were suspected of fraud related with procurement/purchasing of medicine and other medical equipment with the amount of money 2, 160, 772.84 (two million one hundred sixty thousand seven hundred seventy two Birr and 84 cents only). In this case, the accused, in coalition with pharmaceutical company, misappropriated the money mentioned for their own interest. Thus the public prosecutor after investigating the case, establishing that the accused have corrupted, framed the charge against in Kembata Tembaro zonal high court and the court after entertaining the case, found the accused guilty. Hence, sentenced the three accused each, the 1st accused 3yrs, the 2nd accused, 8yrs, and the 3rd one with 5yrs rigorous imprisonment. However, at a time, the public in Kachabira Wereda (Shinshicho Town) health

¹²⁵ William D. Savedoff, *The Characteristics of Corruption in Different Health Systems 2003*, World Health Organization - draft, p.6.

¹²⁶ *Supra* note 102.

¹²⁷ International Covenant on Economic, Social and Cultural Rights, Art. 12 Adopted by the General Assembly on 16 December, Entered in force on 23 March 1976, available at, <https://www.un.org/avl/ha/icescr/icescr.html>, (accessed on 15 June 1976).

institutions, due to the corrupt act of the accused could not access medicines and other medical equipments which has affected their health right negatively.¹²⁸ Such cases in the health sector of the region are very common that similar other zonal high courts have entertained, which this author has realized as his work. Finally, if such corrupt practice sustains in the public health sector and if drug/health facilities marketing by pharmaceutical companies is not well regulated, as studies have shown, physicians may prescribe treatments under the influence of marketing inducements that may be harmful to the patients and to the health system in general.¹²⁹ If states do not guard against this kind of abuse, they will violate their duty to protect the right to health. Generally speaking, corruption in the health sector occurs in three main forms; in management of financial resources (budget allocation); in the distribution of medical supplies, purchasing or marketing and in the relationships of health workers with patients, particularly, in the region at hand, mostly at a time distribution of medical supplies, as in the case mentioned above, thus, it needs due attention so as to minimize the negative impact of corruption on the health right.

2.3.3 Corruption and the right to food

The right to food entails the right of everyone to be free from hunger. This right is recognized in several human rights instruments under international law.¹³⁰ It is component of the right to an adequate standard of living. This right empowers that the people are supposed to be able to feed themselves.¹³¹ Hence the state is obliged to take progressive steps that ensure that there is equal access to food¹³². The core content of the right to food implies availability, safety, acceptability in terms of quality, and accessibility in economic and physical terms. In this regard, it has been identified by the UN Special Rapporteur on the right to food as corruption can seriously harm the realization of the right to food and thus, it is one of the major economic obstacles that hinders or affects the realization of such right. Obviously, corruption diverts the resources and funds due to food away from and affects such right to food.

¹²⁸ *SNNPRS Ethics and Anticorruption Commission vs. Alemayehu Abreham et al*, unpublished.

¹²⁹ *General Comment No.14*.

¹³⁰ *General Comment No. 12, General Comment on the right to adequate food*, available at <https://www.Refword.org.pdfid> , (accessed 16 Jul 2022).

¹³¹ *Ibid*.

¹³² *Ibid*.

As true for other socio-economic human rights, embezzlement affects the food safety and dietary needs recognized in human rights instruments.¹³³ For example, when a public official/s misappropriate/s part of the subsidiary scheme or other funds allocated for food programme instead purchase low-cost and substandard quality food for the dietary needs and food safety of that programme or scheme will be affected resulting in the violation of the right to food of that beneficiary. In addition, when a person in the programme embezzles funds which were destined to buy and distribute food, or when he embezzles the food itself, and diverts the food in to the black market for personal gain, then this will result in socially vulnerable people without direct access to their food ration. Hence the right to adequate food of the society is violated by such act of corruption. From this it is quite clear that corruption negatively affects the enjoyment of human rights particularly, the socio-economic rights of the individuals and at the same time the state/government cannot discharge its human rights obligation emanating from the human rights instruments to which it is party. In other words, it is said to be that “corruption disables a state from meeting its obligation to respect, fulfill, and protect the human rights of its citizens.”¹³⁴

¹³³ ICESCR Art. 11(2)

¹³⁴ Robert S., *corruption as a violation of our Socio-Economic Rights*, available at <https://www.modernghana.com/news/57627/corruption>, (accessed on 15, June 2022).

Chapter Three

3 The legal Regimes to combat corruption and Integrating International Human rights standards in to the anticorruption efforts in SNNPRS

3.1 The legal regime to combat Corruption

As discussed elsewhere in this paper corruption, though its magnitude varies from jurisdiction to jurisdiction, it occurs with no border. However, it is not commonly understood/defined, its causes, consequences and types/forms are also not understood, which shows that it is a complex phenomenon, and hence it is not an easy task so as to tackle/combat it in almost all states. In this regard, until recently this common problem not only hasn't been commonly understood by the world's community but also there has not been such common avenue for fighting/combating it in the international level. Indeed, a move towards the fight against corruption in the international level has begun lately as a global campaign.¹³⁵ Among such efforts made by the international community, 'many nations and some leading international organizations like the United Nations, World Bank, International Monetary Fund, the Council of Europe, the Organization of American States, the African Union, the Organization for Economic Cooperation and Development'¹³⁶ have articulated such anticorruption movements and paved the way to the emergency of globally accepted anticorruption legally binding instrument,¹³⁷ that is UN Convention Against Corruption. In the following section, not every international as well as regional anticorruption initiatives/legal regimes/ will be dealt with but United Nations Convention against Corruption (UNCAC), the Africa Union Convention to prevent and combat corruption to which Ethiopia is party and the national anticorruption laws of Ethiopia and other anticorruption efforts against corruption are scrutinized in in light of human rights one after another. In this regard, the objective and approaches of these conventions and national anticorruption laws in view of the human rights, if anything to do with the enjoyment of human rights will as much be analyzed and discussed and then posit some possible recommendations.

¹³⁵ UNODC, (2004), *United Nations convention Against Corruption, UN Anticorruption toolkit*, available at <https://www.unodc.org>toolkitv5-forward> PDF, (accessed on 2/2/2022).

¹³⁶ Berihanu Adugna G., *the Legal Regime of Corruption in Ethiopia: An Assessment from International Perspective*, *Oromiya Law Journal*, Vol.4, No.1, available at <https://www.ojol.info.article>view> pdf, (accessed on Feb 1, 2022).

¹³⁷ *Supra* Note 139.

3.1.1 United Nations Convention against Corruption

Corruption is a serious economic, social and moral blight especially in many emerging countries. In other words, it is an insidious plague that has a wide range of corrosive effects which undermines democracy and rule of law, leads to violation of human rights, erodes the quality of life and allows organized crime, terrorism and other threats to human security.¹³⁸ This evil phenomenon is not peculiar to certain states but it occurs in all countries whether big or small, poor or rich however its negative effect devastates in the developing economies, in that corruption hurts the already vulnerable groups like the poor disproportionately by diverting the funds intended for development, undermining the government's ability to provide basic services, feeding inequality and injustice and also discouraging foreign investment.¹³⁹ It is also a problem that affects companies in particular in international commerce finance and technology transfer. Thus, it is becoming an international phenomenon in a scope, substance and consequences. Since recently, the international community has understood the impact of corruption in different aspects; due to this reality, there has been a proliferation¹⁴⁰ of international efforts to tackle the problem of corruption.¹⁴¹ Among such set of such international anticorruption cooperative initiative is the United Nations Convention against Corruption (UNCAC) signed in 2003 and entered in to force in December 2005 which is the first truly global instrument to prevent and combat corruption and has been developed with an extensive international participation and negotiation and thus it has been built on a broad international consensus¹⁴² with the purpose of preventing corrupt practices, illicit fund transfer and combat these practices effectively; criminalizing and repressing; to promoting, facilitate and support international cooperation and technical assistance; returning illegally transferred funds to their countries of origin; promoting integrity, accountability and proper management of public affairs and public property.¹⁴³ This convention introduced a

¹³⁸ World Bank, (2013). *Corruption is "public enemy number one" in developing countries*, Kim, (World Bank Group President), [online], available at, <https://www.worldbank.org/en/news/pressreleases/2013/12/19/corruption-developing-countries-world-bank-group-president-kim>, (accessed 20, June 2022).

¹³⁹ *Supra* Note 105.

¹⁴⁰ Antonio Argandona, *the United Nations convention against Corruption and its impact on international companies*, available at <https://media.iese.edu/pdfs/Di-0656-E> PDF, (accessed on 03/02/2022).

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

¹⁴³ UNCAC, art. 1.

comprehensive set of standards, measures and rules that all states parties to it can apply in order to strengthen their legal and regulatory regimes against corruption. It also calls for the preventive measures and the criminalization of the most prevalent forms of corruption on both public and private sectors. Furthermore, it makes a major breakthrough by requiring the member states to return assets obtained through corruption to the country from which they were grubbed.¹⁴⁴

In general, the UNCAC mainly addresses the problem of corruption in light of economic and political point of view, i.e. as shown elsewhere in the previous sections of thesis above, corruption has economic, political, social as well the human rights impacts, however, this convention, in its nowhere, from the preamble to its main content, addresses corruption as human rights issue. i.e. no rights based approach in preventing and combating corruption has been taken as a means to tackle the incidence of corruption.

3.1.2 African union convention on prevention and combating corruption

The African Union Convention on Preventing and Combating Corruption (AU anti-corruption convention) which was adopted on 11 July 2003 at the Second Ordinary Session of the Assembly of the AU held in Maputo, Mozambique and is the most recent regional anti-corruption convention stems from Resolution AHG-Dec 126(XXXIV) adopted by the 34th Ordinary Session of the Assembly of Heads of State and Government (Assembly) of the Organization of African Unity (OAU) in June 1998 in Ouagadougou, Burkina Faso.¹⁴⁵ The convention came into effect as one of the mechanisms within the AU framework with the goal of achieving the legitimate aspirations and better life for the peoples of Africa, promoting and protecting human and peoples' rights, consolidating democracy, and enhancing economic and political development in the region by preventing and combating corruption.¹⁴⁶ The convention manifests the efforts and ways that Africans are devoted of removing obstacles to the enjoyment of economic, social and cultural rights, including the fight against corruption and impunity and propose appropriate legislative and other measures.¹⁴⁷ As it can be observed from the preamble of the convention and its introductory

¹⁴⁴ UNCAC, art.51.

¹⁴⁵ A Resolution to adopt the African Union Convention on preventing combating corruption, Resolution AHG-Dec 126(XXXIV), available at < <http://www.africa-union.org> > (accessed on April, 25/2022).

¹⁴⁶ Preamble of AU Anticorruption convention

¹⁴⁷ Ibid.

provisions,¹⁴⁸ the Convention has the following objectives: which are, Promote and strengthen the development in Africa by each state party of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors;¹⁴⁹ promote, facilitate and regulate cooperation among the state parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa;¹⁵⁰ Coordinate and harmonize the policies and legislation between State Parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent;¹⁵¹ Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights;¹⁵² Establish the necessary conditions to foster transparency and accountability in the management of public affairs. In Addition, the Convention also prescribes the principles by which the state parties to the Convention undertake to abide to respect for democratic principles and institutions, popular participation, the rule of law and good governance; respect for human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;¹⁵³ transparency and accountability in the management of public affairs; promotion of social justice to ensure balanced socio-economic development and condemnation and rejection of acts of corruption, related offences and impunity.¹⁵⁴In this regard, the convention provides a compressive framework on measures of prevention, criminalization, cooperation, asset recovery and education about corruption as strategies to prevent and combat corruption in the Continent. As compared to the UN convention against corruption, it is unique in containing mandatory provisions with respect to private-to-private corruption and on transparency in political party funding. Moreover, the AU anticorruption convention makes a clear reference to the impacts of corruption on human rights both in its preamble and in its objective¹⁵⁵however, despite of its reference to human rights, it did

¹⁴⁸ *Ibid* and Art 4 of the convention.

¹⁴⁹ *The preamble and Art. 2 of AU convention on combating and Preventing Corruption*

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

¹⁵²*Ibid.*

¹⁵³ *Art 3 of the AU convention*

¹⁵⁴ *Ibid.*

¹⁵⁵ *The preamble of AU convention and Art. 2(4)*

not make a substantive provision which gives effect to its reference. Also unlike other anticorruption initiatives and UNCAT and also giving emphasis to the human rights of offenders of corruption by guarantying them fair trial¹⁵⁶and punishing those who make false and malicious reports¹⁵⁷., this research mainly focuses on to showing the impact of corruption on human rights in light of the victims taking Ethiopia's (SNNPRS) context in to account but not assessing the detail content of it.¹⁵⁸ Furthermore, by virtue of articles 6 and 8 of the Convention, states parties undertake to criminalize the laundering of the proceeds of corruption as well as illicit enrichment. Under articles 7 and 9 of the Convention, states parties commit themselves to fighting corruption through requiring the declaration of assets by public officials and creating committees to establish codes of conduct, as well as adopting legislative and other measures to give effect to the right to access to information required to assist in the fight against corruption and related offences. In addition, states parties undertake to put in place measures to address corruption in the funding of political parties as well as in the private sector.¹⁵⁹ Article 20 then includes a provision requiring states parties to communicate, at the time of ratification, the national authorities responsible for the offences stipulated in article 4(1), whilst article 21 provides for the relationship of the Convention with other agreements between states parties to the effect that the former shall supersede the latter. In this regard, a follow up mechanism provided for under the convention.¹⁶⁰ It also establishes an Advisory Board on Corruption that shall, amongst other functions, submit reports to the Executive Council of the AU on the progress made by each state party in complying with the provisions of the Convention.¹⁶¹ In this vein, states parties are required to ensure that their national anti-corruption authorities or agencies report to the Board at least once a year before the ordinary sessions of the policy organs of the AU.¹⁶² As highlighted in the above section of this paper, though it has been mentioned in the convention about the link between corruption and human rights, it's been mainly focused on the economic aspect of corruption that the African

¹⁵⁶ *Ibid*, Art.14.

¹⁵⁷*Ibid*, Art. 5(7).

¹⁵⁸ Art.(1)(g)

¹⁵⁹ Art. 10 and 11

¹⁶⁰ Art.22 of the AU convention.

¹⁶¹ Art 22 (5)(h)

¹⁶² *Ibid* Art.27.

nations/the signatories of the convention committed to, which can be inferred from the preamble and the detail provisions of the conventions.¹⁶³ In the following section, the domestic effort against corruption, (at national as well as regional level) will be examined. To this end, domestic (national) anticorruption legislations, structural arrangements as well as practices and also regional anticorruption measures in the lens of human rights will be assessed.

3.1.3 Domestic Efforts to combat corruption in Ethiopia

The effort to fight against corruption in Ethiopia among other measures began with the establishment of the Federal Ethics and Anticorruption Commission of Ethiopia (FEACC), in 2001 as an independent federal government agency with the following three objectives, which are, creating awareness in Ethiopian society that corruption will not be condoned or tolerated by promoting ethics and anti-corruption education; preventing corruption offenses and other improprieties and strive to create and promote integrity in public services by detecting, investigating, and prosecuting suspected cases of corruption offenses and other improprieties,¹⁶⁴ however, these objectives later on slightly modified in the amended proclamation, which are, in cooperation with relevant bodies, strive to create awareness in Ethiopian society that corruption will condoned or tolerated by promoting anticorruption education; in cooperation with relevant bodies, to prevent corruption offences and to expose, investigate ,and prosecute corruption offences and improprieties.¹⁶⁵ This proclamation has been also amended by other proclamation¹⁶⁶ which has vested to the commission the power of investigating and instituting charges on acts of corruption committed by public organizations and enterprises however, this power from 2016 on has been granted to other organs, corruption crimes investigation mandate, to the Federal Police commission and the prosecution power, to the Federal General Attorney of Ethiopia by another proclamation.¹⁶⁷ Afore mentioned institutional measures against corruption at the federal level, are

¹⁶³ See for example, the preamble and art.3 of AU convention.

¹⁶⁴ *Federal Ethics and Anticorruption Commission Establishment Proclamation, Proclamation No.235/2001, Federal Negarit Gazzeta*

¹⁶⁵ *The Revised Federal Ethics and Anticorruption Commission Establishment Proclamation No.433/2005, Federal Negarit Gazzeta, 7th Year No.23*

¹⁶⁶ *The Revised Federal Ethics and Anticorruption Commission Establishment (Amendment) Proclamation, Proclamation NO. 883/2015, 21th Year No. 38*

¹⁶⁷ *The Federal Attorney General Establishment Proclamation, Proclamation No. 943/2016, 22nd Year No.62.*

the manifestation of the commitment of the federal government towards the international as well as regional anticorruption instruments to which the government is party. Not only institutional measures but also legislative and implementing policies have been devised at the federal level like the 1995 Federal Constitution,¹⁶⁸ the new criminal code of FDRE,¹⁶⁹ corruption crimes proclamation,¹⁷⁰ Revised Anticorruption special procedure and rules of evidence,¹⁷¹ Revised Anticorruption special procedure and rules of evidence (amended),¹⁷² and Disclosure and Registration of assets proclamation, and protection of witness and whistle blowers of criminal offences,¹⁷³ The Revised Proclamation for the Establishment of the Federal Ethics and Anticorruption Commission proclamations(amended)¹⁷⁴ are worth mentioning. In addition to the above mentioned efforts against corruption done by the government of Ethiopia, the ethics liaison units have also been established in federal public offices and enterprises by Council of Ministers Regulation¹⁷⁵ with objective ‘of endeavoring to create public employees who do not condone corruption by promoting ethics and anticorruption education, work discipline, professional ethics, consciousness of serving the public and sense of duty among the employees; preventing corruption and improprieties in public offices and enterprises and endeavoring to cause acts of corruption and improprieties be exposed and investigated and also appropriate actions are taken against the perpetrators.’¹⁷⁶ So as to attain such objectives, ethics liaison units are mandated with such functions as awareness creation on anticorruption policies, laws, good conducts to officials and staffs of public offices and enterprises; continuous follow up as to the implementation of these

¹⁶⁸ *The Constitution of FDRE, Proclamation No.1/1919*

¹⁶⁹ *The Criminal Code of FDRE, proclamation No.414/2004*

¹⁷⁰ *The corruption Crimes proclamation, Proclamation No. 881/2007, 21th Year, No.36.*

¹⁷¹ *The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.434/2005, 11th Year, No. 19.*

¹⁷² *The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.882/2015, 21th Year, No.37.*

¹⁷³ *Disclosure and Registration of Assets Proclamation, proclamation No. 668/2010, 16th Year, No.18.*

¹⁷⁴ *The Revised Proclamation for the Establishment of the Federal Ethics and Anticorruption commission proclamation, Proclamation No. 1236/202, 27th Year, No.15.*

¹⁷⁵ *The Council of Ministers Regulation to provide for the functioning of Liaison Units, Regulation No.144/2008, Federal Negarit Gazeta, 14th Year, No.12.*

¹⁷⁶ *Ibid, Art.4.*

laws and advising the heads of such public offices enterprise¹⁷⁷ and also report issues related to acts of corruption to FEACC¹⁷⁸.

In so doing, ethics liaison units as a country, play a pivotal role in the efforts against corruption though their effectiveness is highly questioned due to different factors, however, in this paper, such effectiveness is not assessed in detail.

Ethiopia, though has taken some positive and progressive anticorruption measures by establishing specialized anticorruption agencies as well as devising anticorruption laws and rules of procedures in the traditional approach that most of the international anticorruption initiatives follow. i.e. unlike the AU convention against combating and prevention of corruption, in which the link between corruption and human rights has been mentioned though the main focus is the economic aspect of corruption, as if corruption has an impact on human rights enshrined for under international as well as regional human rights instruments.

In this regard, however, Ethiopia has exerted a wide range of efforts towards a fighting against corruption, as mentioned earlier, the legislations as well as strategies do not even mention in the preamble as well in their objective part about the impact of corruption on human rights. Rather, they follow the usual/traditional approach/ of straggling against corruption and other improprieties through ethics education, asset disclosure and law enforcement as provided for under the provisions of afore mentioned anticorruption legislations¹⁷⁹ and establishment proclamations.¹⁸⁰

¹⁷⁷ *Ibid*, art.7.

¹⁷⁸ *ibid*

¹⁷⁹ *See For Example, The Criminal Code of FDRE, proclamation No.414/2004;The corruption Crimes proclamation, Proclamation No. 881/2007,21th Year, No.36;The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.434/2005, 11th Year, No. 19;The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.882/2015, 21th Year, No.37;ibid*

¹⁸⁰ *The Revised Federal Ethics and Anticorruption Commission Establishment Proclamation No.433/2005, Federal Negarit Gazzeta, 7th Year No.23; the Revised Federal Ethics and Anticorruption Commission Establishment (Amendment) Proclamation, Proclamation NO. 883/2015,21th Year No. 38; the Federal Attorney General Establishment Proclamation, Proclamation No. 943/2016, 22nd Year No.62; Revised Federal Ethics and Anticorruption commission proclamation, proclamation No. 1236/2021, art.20.*

These national instruments against corruption in their no part, from preamble to miscellaneous part, have mentioned corruption as an issue of human rights, contrarily, as highlighted above, has been addressed for under AUCPCC and since recently it has also become a common agenda of human rights organizations¹⁸¹ and anticorruption movements, and also since recently, United Nations and Regional organizations have recognized the negative impacts of corruption on the enjoyment of human rights.¹⁸² In this regard, the HRC on its 28th session on the issue of the negative impact of corruption on the enjoyment of human rights, has drawn the report concluding that ‘corruption has a negative impact on the enjoyment of human rights of all those affected by it. Moreover, its negative impact on the enjoyment of human rights by vulnerable persons like persons belonging to minorities, indigenous peoples, persons with disabilities, refugees, prisoners, women, children and those living in poverty are often compounded and such persons or groups of people are more suffered from the impact of corruption.’¹⁸³ As said, anti-corruption measures in the national as well as in the international contexts primarily concentrate on prosecution of the related criminal offences apparently disregarding such negative impact of corruption on human rights.

In this regard, “International anti-corruption treaties also encourage States parties to take steps within their legal order to criminalize certain kinds of behavior defined as corruption”¹⁸⁴ in this sense, Ethiopia also follow the same foot step in the fight against corruption as noted above, is the traditional/usual approach against corruption. Indeed such approach, according to some studies, is ineffective so that it “demands a well-integrated multidisciplinary anticorruption strategy/approach”¹⁸⁵ as also argued for in this paper. As also noted above, the institutional as well

¹⁸¹ *Human Rights Council, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights*, available at <https://ap.ahchr.org/dpae-e> >, accessed on May, 29/2022.

¹⁸² *Ibid*, para. 27.

¹⁸³ *Supra note 159*.

¹⁸⁴ *Supra note 159*.

¹⁸⁵ *Misganaw G.Beza, Corruption in the post 1991 Urban Land Governance of Ethiopia: Tracing Major Drivers in the Law*, available at <https://www.semanticscholar.org/paper/corruption-in-the-post-1991-urban-land>.

as legislative frameworks to prevent and sanction corruption in Ethiopia is strong on paper, however, they do not operate as expected and the legislative frameworks haven't been implemented effectively as many agree.¹⁸⁶ This can be evidenced from study conducted by TI in 2018 corruption perception index with the score of 34 out of an achievable 100 thus, yet in Ethiopia, corruption is perceived to be a serious problem, which is rated 114th out of 180 countries.¹⁸⁷ Hence, this shows that the mere existence of law and an established institutions may not serve the purpose of combating corruption and also may not be a sufficient response to the increasingly sophisticated corruption, hence, as mentioned above, needs the new and integrated approach including the revision of the existing anticorruption legislations and institutional frameworks.¹⁸⁸ As anti-corruption measures are focused mainly on the consideration of criminal offences, the necessary sanctions, and international cooperation in prosecution which measures within the criminal law narrows the focus to the perpetrators as the purpose of criminal proceedings, which in turn leads to a loss of focus on the victim of the corruption. In this sense, the position of those affected by corruption is not very strong in criminal proceedings. It is concentrated, by its very nature, on a single offence, and typically cannot address the holistic and general effects of corruption.¹⁸⁹ Due to this and other compelling reason, there to be an inclusive and integrated human rights approach against corruption. In this regard, the International Council for Human Rights Policy, emphasizing this notion in its study on anti-corruption and human rights, proposed that “anti-corruption programmes would gain attraction if they were to incorporate human rights principles.”¹⁹⁰

That paper also argues for and suggests the new approach in the fight against corruption, which is the human rights approach, without disregarding the other anticorruption measures including the persecution of perpetrators of corruption offences.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ *Supra note 167.*

¹⁸⁹ Anastasia, F (2018/19), *Reframing Corruption under International Law.*

¹⁹⁰ *International Council on Human Rights Policy and Transparency International (2010) Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities, available at <https://assets.publishing.service.gov.uk>media>pdf>. (accessed on 15 June,2022).*

As Ethiopia follows the federal State arrangement, hence, besides the mandates of the central government, the regional states have also autonomy over their own affairs, including establishing the agencies responsible for operating in their own matter. In this regard, besides the establishment of the federal EACC of Ethiopia, since 2001 on, the 9 regional States have established their own anticorruption institutions and also, since 2020, two additional similar anticorruption agencies, Sidama national Regional State Ethics and Anticorruption commission and South West People Regional State Ethics and Anticorruption Commission have been established with a mandate to fight against and prevent corruption in their respective regions however, in this section, the detail duties and functions of such regional anticorruption agencies will no more be dealt with except the SNNPRSEACC's duties and functions in respect of human right will be highlighted in the following section.

3.1.4 Efforts made to combat corruption in SNNPRS

As highlighted above, SNNPRS is one of the regional states in Ethiopia. Thus, it has its own governmental institutions including the institution of Ethics and anticorruption commission which has been established in 2002, a year after the FEACC by the proclamation,¹⁹¹ later on amended by the proclamation No. 142/2012 and it has autonomy in managing its own operations and budgets. Concerning the anticorruption measures and strategies, the regional anticorruption agency (SNNPRS EACC) follows similar track that its federal ancestor, FEACC, applies besides its jurisdiction is limited to the region at stake. The substantive and procedural laws implemented at the federal level in relation with prevention and prosecution of corruption crimes in the regional level are the same. Previously, based on the above mentioned proclamations, the commission had the mandate of investigation and prosecution of corruption crimes and other improprieties, however, later 2019 on, such mandates have been granted to the Region's justice bureau(the mandate of prosecution) and the region's police commission (investigation power in collaboration with public prosecutor) by another proclamation, proclamation No.177/2019. The above section tried to highlight the efforts made to fight against corruption and the approaches implemented therein. Whereas in this section, it is intended to demonstrate the efforts made in region concerning

¹⁹¹ *The South Nations Nationalities and people's Regional State Ethics and Anticorruption Commission Establishment proclamation, Proclamation No 48/2002.*

the fight against corruption and also the approaches followed in relation with combating corruption.

In this regard, as mentioned above, the strategies implemented, the legal and policy tools against corruption applied, and the approaches followed are similar to the Federal Ethics and Anticorruption Commission of Ethiopia despite its jurisdiction is limited to the regional anticorruption aspect. For example, in order to investigate and prosecute corruption cases occurring in one of the regional public offices and public enterprises, the legal frameworks like, the corruption crimes proclamation, proclamation¹⁹², the Revised Anticorruption Special Procedure and Rules of Procedure Proclamation¹⁹³ and the Proclamation to Amend the Revised Anticorruption Special Procedure and Rules of Evidence proclamation¹⁹⁴, to mention some, are similarly implemented. The regional commission also establishes ethics liaison units by regulation¹⁹⁵ in region's public offices and enterprises which has contributed to the expansion of ethics education and prevention of corruption, in such offices and enterprises as part of the fight against corruption as has been done by the FEACC in the area of its mandate. In short, the corruption struggling mechanisms, anticorruption measures taken, strategies and tools of fighting corruption, in other words, the legal frameworks as well as structural arrangements in the federal as well as in the region at hand, indeed the other regional states too, as a country are similar despite the fact that the area of operation differs. In this sense, one can hardly say that there is any different anticorruption strategy or struggling mechanisms or any new approach to that effect, rather as mentioned above the footsteps of the FEACC in all aspect of fighting corruption are followed. Contrarily, as many studies confirm so and as the same is true at federal Ethics and anticorruption commission level, despite anticorruption measures and efforts made in the country and also in the region, the act of corruption and its effects are devastating and sophisticating through time, which

¹⁹² *The corruption Crimes proclamation, Proclamation No. 881/2015, 21th Year, No.36.*

¹⁹³ *The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.434/2005, 11th Year, No. 19.*

¹⁹⁴ *The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.882/2015, 882/2015, 21th Year, No.37.*

¹⁹⁵ *South Nation, Nationalities and Peoples' Regional State Ethics Liaison Unit Establishment Proclamation Number 84/2011, Debub Negarit Gazeta, Addis Ababa, Branna Printing Enterprise.*

necessitates multidimensional and integrated anticorruption approach in addition to those frameworks available in this regard.

In this chapter, the international and regional anticorruption regimes against corruption have been highlighted. The national anticorruption efforts made in Ethiopia are also overviewed. Surprisingly, most legal regimes as well as measures and strategies lack the human rights aspect of anticorruption except the AUPCC, which has mentioned the human rights effect of corruption though it is slightly. Therefore in the following section, the new mechanisms like combating corruption by using human rights standards, human rights mechanisms and fighting corruption while safeguarding human rights and also contribution for the enforcement of human rights, using human rights based methods to prevent corruption will be forwarded in to the anticorruption agenda that the connection between corruption and human rights is will be dealt with.

3.2 Integrating International Human Rights Standards in to Anticorruption Efforts in Ethiopia/SNNPRS

3.2.1 Using human rights standards to prevent and combat corruption

An efficient anticorruption strategy can benefit from and be informed by key human rights standards and principles. In other words, for instance, progress in the area of human rights concerning freedom of press, freedom of expression, transparency in the political system and accountability are essential for successful anticorruption strategy. The most effective systemic check on corruption is to enable citizens to take the initiative to seek information from the state, and thereby to enforce transparency and accountability. This right based approach towards anticorruption, empowers individuals and groups “to question, examine, audit, review and assess government’s acts and decisions, to ensure that they are consistent with the principles of public interest, probity and justice.”¹⁹⁶ By exercising such right, individuals can make informed decisions and express their opinions freely and participate actively in a democratic system.¹⁹⁷

¹⁹⁶ Human Rights Council, General Assembly. (2015). *Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights*. UN Doc. A/HRC/28/73.

¹⁹⁷ Human Rights Council, General Assembly. (2016). *Best practice to counter the negative impact of corruption on the enjoyment of all human rights*

As also discussed earlier, all human rights either directly or indirectly are affected by the acts of corrupted practices, i.e. they are directly violated or the series acts of corruption may be the causes for the violation of human rights occur. In other words, where corruption is pervasive and when the public officials are deeply engaged in corrupt practices, it will be difficult to the government to perform its human rights obligations emanating from the international human rights instruments to which it is party to respect, protect and fulfil the human rights of its people and also is difficult to hold such officials to account hence, corruption keeps flourishing and as a result, endangers the human rights.¹⁹⁸ On the other hand, as discussed so far, when the international standards of human rights are strictly applied, it helps enhance the measures and efforts to counter corruption. In other words, “efforts to combat and counter corruption would be more effective and sustainable when coupled with an approach that respected all human rights.”¹⁹⁹ Moreover, the elimination of corruption and the strengthening of human rights both require a conducive (transparent and accountable) system as will be addressed in detail below.

3.2.2 Guarantying human rights through fighting corruption

It has been concluded that corruption has serious consequences for human rights, hence enhancing and guarantying such rights contributes in the fight against and countering corruption.²⁰⁰ Corruption, with no doubt has a negative impact on the enjoyment of human rights of all those affected by it. But its negative impact on the enjoyment of human rights by vulnerable persons is compounded.²⁰¹

¹⁹⁸ *Economic and Social Council, Commission on Human Rights. (2004). The role of good governance in the promotion of human right. UN Doc. E/CN.4/2005/97.*

¹⁹⁹ *Human rights council, General Assembly. (2007). Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human rights Council.” UN doc. AHRC/4/71.*

²⁰⁰ *Human Rights Council, promotion and protection of human rights, civil, political economic, social and cultural rights Including the right to development, final report of human rights council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights, available at [https://docslib.org/the-negative-impact](https://docslib.org/the-negative-impact-of) of, (accessed on 20 Dec 2021).*

²⁰¹ *UN General Assembly, (2014). Human rights Bodies and Mechanisms, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: Progress report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights, available at, <https://www.ohchr.org/A-HRC-28-73-ENG Doc>.*

In other words, ensuring the effective implementation/enforcement of human rights standards or principles as have been provided for under international human rights instruments will have a preventive role in fighting against corruption.²⁰² This may be manifested, when for example, the right to freedom of expression, assembly and association are guaranteed and permitted to be exercised freely, it will be easier to identify and denounce cases of corruption as a result transparent working environment will be created or in other words, the public service and goods will be transacted freely in the environment with no or minimal corrupt acts at least due to fear of public scrutiny.

As corruption is essentially an abuse of power, and human rights address abuses of power, hence the implementation of human rights standards, principles, and mechanisms for the protection of human rights in the fight against corruption which would empower such victims of corruption as right holders,²⁰³ can contribute for the prevention of corruption, and a human rights analysis shades light on the power relations in a society as it pays particular attention to discrimination, equity and the removal of economic, legal and political obstacles that prevent marginalized groups from enjoying their rights.²⁰⁴ Furthermore, it changes the public attitude towards corruption creating a common sense of awareness concerning which rights can be affected by corruption and citizens would be more interested in claiming their rights denouncing corruption because they recognized as the primary victims of corrupt practices, and will be placed at the central stage of anticorruption efforts.²⁰⁵ Hence, denouncing corruption means the exercise of human rights recognized for under international human rights instruments thus, the concept of human rights is also an important tool for fighting against corruption,²⁰⁶ i.e. combating corruption means establishing conducive environment for the realization of human rights. That is why, sometimes corruption and human rights are said to be “the two sides of the same coin.”²⁰⁷ That means whenever human rights are

²⁰² *Ibid.*

²⁰³ *UNOHCHR and Geneva Academy, Human rights and countering corruption*

²⁰⁴ *Ibid.*

²⁰⁵ *Peters, A. Corruption as a Violation of International Human Rights, available at <https://academic.oup.com/ejil/article>.*

²⁰⁶ *Ibid.*

²⁰⁷ *Rajagopal, B. (1999), Corruption Legitimacy and Human Rights: The Dialectic of the Relationship. Connecticut Journal of International Law, [online] 14(2), pp.494-507. Available at <https://ssrn.com/abstract=940042> (accessed on May 20, 2022).*

suppressed and not protected in manner required for under the relevant human instruments, corruption is likely to flourish. It is to say, for instance, in the absence of human rights like freedom of expression and assembly or where access to information and education is restricted, it would be difficult to hold public officials to account, which in turn allows corruption to pervade.²⁰⁸ In this regard, if human rights approach is implemented in fighting against corruption, the status of the victims would notably change and the anticorruption legal framework would also be enhanced by human rights expertise concerning the application of the principles of participation, transparency and accountability which is essential for both the campaign against corruption and the human rights discourse.²⁰⁹ This in turn manifests not only are corruption obligations established under criminal law but also an anticorruption obligation emanating from international human rights law which strengthens the commitment of States in fight against corruption.²¹⁰ In addition, a human rights analysis can contribute directly to the design and implementation of anti-corruption policies. If fundamental human rights enshrined in human rights instruments are guaranteed, especially the rights to the basic necessities of life, it would be important in that the incidence of corruption and related offences would be reduced.

In this regard, corruption should be recognized as a human rights issue as it has been demonstrated above, causes a human rights violation and therefore, reconsidering corruption under the human rights law lens would allow going further than mere conceptualization of corruption as victimless economic crime, advocating for the human rights costs of corruption and not only for the political and economic cost. Furthermore, applying human rights approach to combating corruption, helps to provide a new international legal framework which aims to clarify and monitor the rights entitlements of the right-holders and the responsibility of the duty bearers.²¹¹ In relation with the human rights, the state is the entity responsible for the human rights, without precluding the employment of the criminal law approach, the human rights perspective would allow the creation

²⁰⁸ *Ibid.*

²⁰⁹ *International Council on Human Rights policy and Transparency International, eds, 'Integrating Human Rights in the Anticorruption Agenda: Challenges, Opportunities and possibilities, available at <https://www.researchgate.net>publication>, (accessed on Jan 15, 2022).*

²¹⁰ *See supra note 162.*

²¹¹ *UNOHCHR, (2016), Human Rights and countering Corruption, available at <https://www.geneva-academy.ch/joolatools-files-pdf>, downloaded on 20 Jun 2022.*

of the State's responsibility for corrupt practices under the existing international human rights law. To wind up this section, the thesis proposes the human rights approach towards the fight against corruption in addition to the existing anticorruption frameworks, which in turn may add value of reducing the gap in the fight against corruption. Moreover, as a problem of corruption is multidimensional, thus it needs integrated and holistic approaches towards the fight against it.²¹² Finally, ensuring the effective enforcement of human rights as norms of good behavior in addition to other anticorruption measures will have a preventive role in the fighting corruption. Thus, human rights based approach empowers people to know and claim their rights and also it increases the ability of the organizations, public bodies and businesses to fulfil their human rights responsibilities, hence creates solid accountability so that people can seek remedies when their rights are violated.²¹³

3.2.3 Ensuring non-discrimination and participation

It has been revealed that the act of corruption may directly constitute a violation of human rights when a corrupt act is deliberately used as a means to violate a right. Combating such corrupt acts on the other hand, plays a pivotal role for the realization and guarantying of human rights in general and ensuring non-discrimination and participation in particular which in turn will reduce the incidents of corruption. In other words, giving due effect to the enforcement of human rights in general and guarantying norms and principles that the camping against corruption and human rights share in common which are principle of nondiscrimination and participation.²¹⁴ Most of the time, corruption is associated with discrimination, hence if that is the case, there will be distortion of public resources in a discriminatory manner. In such situation, certain groups or individuals are left without access to public resources for example in case when they cannot or refuse to pay a bribe or the do not belong to a certain group.²¹⁵ Corruption may also be committed in association

²¹² See supra note 166.

²¹³ Raul Wallenberg Institute of Human Rights and Humanitarian Law, (2018), *The Nexus between Anticorruption and Human rights* Lund: Raul Wallenberg Institute, available at <https://www.unodc.org>institute-RWI>. P.22. (Accessed on May 2, 2022).

²¹⁴ OHCHR, (2016), 'Human rights and countering corruption', Geneva Academy, available at <https://www.geneva-academy.ch>-files> <PDF (accessed on Dec 17, 2021).

²¹⁵ Supra note 95.

with race, color, sex, language, religion, political opinion or social origin. This can be avoided by enabling the public or individuals to seek and receive information²¹⁶ as well as actively participate in decision making in turn creates conducive ground to those individuals to make informed decisions and express their opinions freely and participate actively in the matter affecting their human rights.²¹⁷ This shows that access to information in equal basis, empowers individuals and groups to freely exercise their rights thereby enforce transparency and accountability and hence in such situations there will be social empowerment creating social accountability. In this regard, state parties should promote society's participation in preventing and combating corruption including through public participation in decision making process by enhancing transparency, access to information and the freedom to seek, receive publish and disseminate information concerning corruption.²¹⁸ Thus, it is important to note that an integrated approach is required so as to combat corruption while ensuring and realizing the human rights standards as set forth in the international human rights instruments in nondiscriminatory and participatory manner. Moreover, the realization of human rights creates an environment in which corruption can be effectively condemned, prevented and remedied.

3.2.4. Social Empowerment

Whenever the human rights are guaranteed and ensured, say for example, by educating the society about their human rights, it will be an important tool in that it provides knowledge and skill needed to enjoy, apply, promote, and defend their human rights.²¹⁹ In other words, a clear understanding of the practical connection between acts of corruption and human rights may empower those who have legitimate claims to demand their rights in relation to corruption and may assist states and other public authorities to respect, protect and fulfil their human rights responsibilities at every level.²²⁰ In this respect, the society or the people will be sensitized to the destructive effect of

²¹⁶ *Supra* note 79.

²¹⁷ *Ibid.*

²¹⁸ *Supra* note 75.

²¹⁹ *Supra* note 79.

²²⁰ *Transparency International, "The impact of Corruption in Growth and Inequality", 2014, available at <http://www.transparency.org/files/content/corruptionqas/impact/-of-corruption-on-growth-and-inequality-2014.pdf> (accessed on 25 Dec 2021).*

corruption on their own human rights as well as others.²²¹ This may also be done through human rights education, for instance, when the people are empowered by such human rights education, they will be aware of such challenge of corruption thus oppose the incidence of corruption and claim their rights, using human rights mechanisms at the domestic and international levels. In other words human rights education fosters a well-informed and emancipated civil society that rejects and calls for integrity and accountability as a human rights obligation.²²² Also when, the human rights are guaranteed, the society will be empowered in that ever increasing resources and alternatives are open to ordinary citizen.²²³ In its classic postulation, social empowerment entails strengthening civil society in order to enhance its political and economic vitality, providing more orderly paths of access and rules of interaction between state and society, and balancing economic and political opportunities.²²⁴ Indeed, social empowerment will not totally eradicate corruption. It can however, provide the necessary support for institutional reforms, weaken the combinations of monopoly, discretions and lack of accountability that make for systemic corruption, and help institutionalize reform for the long term by linking it to the lasting interests in active political and social process. In this sense, it can also change the notion that corruption is “victimless crime” by raising the awareness of the citizenry in that corruption in one way or the other affects their human rights.

3.2.5 Human rights mechanisms to prevent and combat corruption

Through the analysis of several UN legal documents, it is possible to affirm that, at the UN level, it is widely recognized that corruption and human rights are intrinsically correlated for two different reasons. On the one hand, the UN acknowledges the fact that corruption creates harmful conditions for the enjoyment of human rights. More specifically, the UN understands that the consequences of corruption go beyond the merely economic and political effects. For example, since the corrupt management of public resources compromises the state’s ability to provide

²²¹ *Ibid.*

²²² *Supra note 169, pp.5, para 3.*

²²³ *Empowering citizens to fight corruption: New Tactics in Human Rights, Inspiring and Equipping Activists to change the world, on line publication, available on <https://www.newtactics.org/conversation/empowering-citizens-fight-corruption>.*

²²⁴ *International Council on Human Rights Policy, (2009). Transparency International, the Global coalition against Corruption, Corruption and Human Rights: Making the connection, available at <https://ssrn.com/abstract=1551222>.*

services, UN recognizes that corruption could undermine a state's human rights obligation to maximize available funds for the progressive realization of rights recognized under ICESCR.²²⁵ Furthermore, at the UN level, it becomes also clear that corruption can also affect the enjoyment of civil and political rights in all states by weakening public institutions and eroding the rule of law, two fundamental factors for the implementation of an efficient human rights system.²²⁶

On the other hand, the UN comprehends the need to develop a strategic link between human rights and anti-corruption. Human rights principles represent an essential component of successful and sustainable anti-corruption strategies.²²⁷ The UN through its different agencies, recognizes that the legal standards and objectives of human rights and anti-corruption instruments are, in many aspects, complementary.

After establishing such human rights-anticorruption link, the Human Rights Council, its Special Rapporteurs, and the Human Rights Council Advisory Committee have addressed corruption and human rights on several occasions. For instance, a Special Rapporteur was appointed by the former Sub-Committee on the Promotion and Protection of Human Rights to prepare a comprehensive study on corruption and its effect on the full enjoyment of human rights, in particular economic, social and cultural rights in 2003.²²⁸

Another conference was also arranged by OHCHR, in cooperation with the United Nations Development Programme (UNDP) on the role of good governance practices in the promotion of human rights, including anti-corruption. In brief, the purpose of the seminar was to discuss examples of illustrative governance practices that have had an impact on the promotion of human rights and to draw lessons from them.²²⁹ Herein it was concluded that there is a mutually reinforcing relationship between good governance, including combating corruption in the public and private sectors, and human rights.²³⁰

²²⁵ ICESCR, Art. 2.

²²⁶ *Supra* note 171.

²²⁷ Human Rights Council, General Assembly. (2013) *Summary report of the Human rights Council panel discussion on the negative impact of corruption on the enjoyment of human rights*, UN Doc. A/HRC/4/71.

²²⁸ United Nations, General Assembly. (2003). *United Nations convention against corruption*. UN. Doc A/58/422.

²²⁹ UNOHCHR, (2007). *Good Governance Practices for the Protection of Human Rights*, New York.

²³⁰ *Ibid.*

As a result of the previous successful meeting, the OHCHR organized a Conference on anticorruption measures, good governance, and human rights with a goal of deepening the understanding of good governance practices that contribute to the fight against corruption by concentrating on human rights approaches.²³¹ As concluded in the meetings, the linkages between corruption, human rights, and good governance has been highly established and provided participants the opportunity to share concerns and experiences.²³² In this regard, it has been demonstrated that how human rights and good governance principles could help in fighting against corruption.

The subsequent effort of human rights agencies has resulted on the adoption of the first resolution entitled Panel discussion on the negative impact of corruption on the enjoyment of human rights,²³³ in which they decide to convene a debate on the issue of the negative effect of corruption on the enjoyment of human rights.²³⁴ Therefore, following Human Rights Council resolution 21/13, the OHCHR submitted a summary report of the dialogue at Human Rights Council at its twenty-second session. The panel discussion was held on 13 March 2013 in Geneva. Briefly, the summary report highlights that there is both an intellectual and practical evidence that corruption represents an obstacle to the realization of all human rights.²³⁵ It has been acknowledged that the denial of access to corruption constituted a human rights violation. At the same time, it has been concluded that anti-corruption activists and whistleblowers could be regarded as human rights defenders. Furthermore, it stated that efforts to combat corruption would be more effective and sustainable when coupled with an approach that respects all human rights. Finally, there was a strong consensus that a link existed between corruption, anti-corruption, and human rights because they share the same principles. The summary report concludes by calling the attention of the Human

²³¹ Hemsley, L. (2015), *Human Rights and Corruption-State's Human Rights Obligation to fight Corruption*, *Journal of Transnational Legal Issues*, 2(1).

²⁰¹ *supra* note 196.

²³³ Human Rights Council, General Assembly, (2012). *Panel discussion on the Negative impact of corruption on the enjoyment of human rights*, available at <https://www.ohchr.org/HRBodies/Advisorycom/pdf>, accessed on (May 20, 2022).

²³⁴ *Ibid.*

²³⁵ *Supra* note 200.

Rights Council to address in a resolution the negative impact of corruption on the enjoyment of human rights.²³⁶

As underlined by the OHCHR, the Human Rights Council adopted in 2013 the resolution 23/9 entitled the negative impact of corruption on the enjoyment of human rights. According to this resolution, the Human Rights Council recognizes that all forms of corruption can have a serious negative effect on the enjoyment of human rights and that the link between anti-corruption and human rights must be analyzed to better utilize UN human rights mechanisms in this regard.

Therefore, after having presented a draft report, the Advisory Committee presented its final report on the issue of corruption and the enjoyment of human rights analyzing in a very detail manner the issue of corruption, showing that in what respect corruption harms human rights and demonstrating value of linking the two discourses.²³⁷ Following, the Advisory Committee underlined that what is missing are strategies that can translate the substantive linkage into concrete measures and the establishment of criteria to recognize when an act of corruption leads to a violation of human rights.²³⁸

Furthermore, different approach comes from the last Human Rights Council resolution, a resolution no. 35/25 of 14 July 2017 concerning corruption and human rights. Accordingly, in the resolution, the Human Rights Council stresses that preventive measures, such as an anti-corruption education or the strength of international cooperation, are the most effective means for countering corruption and for avoiding its negative impact on the enjoyment of human rights.²³⁹

Consequently, as the experts discussed whether anti-corruption necessitates being also fought with a human right focus and how it would be possible to help states to adopt a rights-based approach to fighting corruption concluding that there is a relation between human rights and corruption, as

²³⁶ *Ibid.*

²³⁷ *Human Rights Council, General Assembly. (2015). Final Report of the Human Rights Council Advisory Committee On the issue of the negative effect of the enjoyment of human rights, available at <https://www.right-docs.org/doc/a-rc>, (accessed on May 20,2022).*

²³⁸ *Ibid.*

²³⁹ *Ibid.*

human rights were designed to limit abuse of power by governments, whereas corruption was the abuse of power in the hands of the authorities.²⁴⁰

According to the experts, fighting corruption requires a coherent and, especially, a holistic approach that seeks to prevent and suppress corrupt behavior. Moreover, while it may be true that corruption was not directly included as an issue in the international human rights instruments, they specified that international human rights law and international anti-corruption law share the same principles of integrity, transparency, accountability, and participation, which are also key principles of good governance and complement and reinforce each other.²⁴¹ Therefore, they concluded by affirming that combating corruption is essential for ensuring the realization of human rights.²⁴² At the same time, fighting corruption is inextricably linked to the exercise and enjoyment of human rights²⁴³ as has been argued for elsewhere in this paper.

To conclude, this on-going commitment by the United Nations to create a link between corruption and human rights reflects that there is a progressive common understanding of the strategic importance of the interconnection of the two discourses. UN acknowledges that corruption could be a contributing factor in a human rights violation and that a human rights approach to anti-corruption is necessary.²⁴⁴ However, despite these resolutions are important in improving the conceptualization of corruption, the link between corruption and human rights is still laying within soft law.²⁴⁵ As it is easy to comprehend from their titles, numerous resolution focus on the negative effects of corruption on the enjoyment of human rights. As a result, corruption is ineffectively

²⁴⁰ *Human Rights Council, General Assembly. (2019), summary of the expert of workshop on the good practices of United Nations-system support to States in preventing and fighting against corruption, with a focus on human rights, available at <https://www.ohchr.org/events/meetings>, accessed on (May 20, 2022).*

²⁴¹ *Ibid.*

²⁴² *Rajagopal, B. (1999). Corruption, Legitimacy and Human rights: The Dialectic of the Relationship. Connecticut Journal of International Law, [online] 14 (2), pp.495-507. Available at, <https://ssrn.com/abstract=940042>, (accessed on 20 June, 2022).*

²⁴³ *Ibid.*

²⁴⁴ *Raul Wallenberg Institute of Human Rights and Humanitarian Law, (2018), The Nexus between Anticorruption and Human rights Lund: Raul Wallenberg Institute, available at <https://www.unodc.org/institute-RWI>. (Accessed on June 2, 2018).*

²⁴⁵ *Ibid.*

considered as an external factor that limit the state's success in protecting rights.²⁴⁶ Furthermore, several critical issues regarding this connection are not merely taken into consideration. For example, the causal link or the rules of attribution, which are fundamental to delineate in which way a corrupt act may violate a recognized human right, are not analyzed in detail. Finally, what is still missing are strategies that can put into practice this alleged substantive link.

Indeed, rarely is corruption addressed in a comprehensive and systematic manner by the UN Treaty Bodies. However, some human rights treaties bodies that monitor implementation of the core international human rights treaties mention corruption in a very vague and imprecision way. Even though in such treaties, it has not been taken into consideration that what type of corrupt practices is or what should be the exact link between a corrupt practice and a human right violation. For instance, the Committee on the Elimination of Racial Discrimination in one of its concluding observations concerning Bulgaria mentioned "...the Committee is aware of the efforts the State party must take, in particular to enhance the independence of the judiciary and eliminate corruption."²⁴⁷ In addition, another treaty body, the Committee on Migrant Workers affirmed that "while welcoming the progress achieved by the State party in combating corruption, the Committee is concerned that the level of corruption remains high."²⁴⁸ From this, it can be concluded that how corruption affect various types of human rights and the importance of the connection between corruption and human rights though the analysis remain weak and imprecise in that it does not provide on how to tackle this issue considering human rights. In fact the importance the reports of treaty bodies in relation with bringing an issue in to front and "serving as a basis for civil society organizations and national human rights institutions to push for action or reforms at domestic level"²⁴⁹ should not be ignored.

²⁴⁶ *Ibid.*

²⁴⁷ *Committee on the Elimination of Racial Discrimination. (CERD), (2009), Concluding observation of the Committee on the Elimination of Racial Discrimination.*

²⁴⁸ *Committee on Migrant Workers. (2015). Concluding observations on the initial report of Kyrgyzstan, available at <https://digitallibrary.un.org/record/>, (accessed on May 20, 2022).*

²⁴⁹ *Supra Note 181. P.3.*

Chapter four

4 Conclusion and Recommendations

4.1 Conclusion

Corruption exists throughout human history. It is a complex and global phenomenon which has been experienced throughout the world's countries either in developed or developing which devastates the efforts of the world's community to protect and promote the human rights; by lessening or diverting the focus or the whole resource allocated to that effect.

Though corruption commonly affects the whole community of the world, it has however not been consensually defined yet. This is partly because, the concept of corruption by itself is a complex undertaking as its meaning, causes, forms and consequences are diverse and multi-faceted. However, according to the World Bank's definition, corruption means "abuse of public or corporate office for private gain."

Whatever the definition of corruption may be, all forms of corruption have a negative impact on the enjoyment of human rights, particularly grand corruption, which involves substantial amounts of money and mostly high level of public officials.

Anti-corruption agenda and human rights issues for a long have been gone parallel as if they have no nexus in between, however, since recently, there are some institutional reports or academic researches which endeavor to highlight the negative relation between corruption and human rights. This study also focuses on exploring of such link in the study area. Hence, as to this study, as scant literature reveals that corruption negatively affects the enjoyment of human rights, as a result human rights are violated.

In this sense, corruption violates the whole set of human rights and fundamental freedoms of all human beings (particularly socio-economic rights) recognized under various international and regional human rights instruments and thereby hampers and weakens the effort of the states in general and Ethiopia as well as in the region at stake in particular. Its impact is compounded in the case of vulnerable groups of the society, such as women, children, minorities, indigenous peoples, migrant workers, persons with disabilities, refugees, prisoners and those who are poor.

Conversely, guarantying human rights in general and ensuring non-discrimination and participation in particular are useful preventive tools for corruption, however, such a human rights

approach of fighting corruption apparently lacks from these anti-corruption conventions and the national anticorruption legal regimes and initiatives despite the AU CPCC makes a clear reference to the human rights impact of corruption though, it did not make a substantive provision which gives effect to its reference, thereby the measures adopted are weak in rectifying the human rights impact of corruption.

Having explored the relationship between corruption and human rights; having also examined the anti-corruption conventions and have found that they did not have a human rights lens of preventing and combating corruption; hence, the study posits human rights approach in the fight against corruption without disregarding the existing anticorruption measures. In this regard, the relation between corruption, anticorruption and human rights has been explored and determined, that is the negative one. i.e. corruption affects the enjoyment of all human rights negatively.

It has also been established that the existing anticorruption measures deal with corruption mostly from economic or political view point which is ineffective regarding the fight against corruption, thus, this in turn necessitates an integrated human rights based approach against fighting and combating corruption.

Such approach, identifies corruption as a human rights issue and not merely as a crime or an economic factor, rather it is a victim centric and makes corruption's negative impact on individuals, groups and society in general more visible. Furthermore, the human rights approach against corruption helps in countering corruption by empowering victims of corruption as right holders establishing the relationship(as duty bearers and right holders) with public authorities.

Therefore, so as to prevent and combat corruption to the extent required and as the same time, to ensure the full realization of the enjoyment of human rights enshrined for under international, regional as well as the national human rights instruments, there to be the international, regional as well as the national anticorruption legislations reconsidered taking in to account that corruption is as an issue of human rights.

To this end, the relevant conventions and legislations should be amended in a way of accommodating the issue at stake. Concerning Ethiopia and the region at hand in particular, the stake holders like human right institutions and anticorruption agencies should work together in integrated manner so as to tackle corruption as a human rights issue, which strengthens the national

anticorruption efforts and at the same time enable to create conducive environment for the government to protect, respect and fulfil the human rights obligation emanating from human rights instruments to which it is party.

4.2 Recommendations

- As this study reveals, that corruption is complex and multifaceted phenomenon that affects the human rights of all forms but the measures adopted in anticorruption instruments, (UN CAC, AUCPCC as well as the national anticorruption legislations of Ethiopia) focus on prevention, criminalization, asset recovery and international cooperation, ignoring the human rights aspect of corruption. Therefore, it is recommended that the fight against corruption should also be diversified and integrated, hence the anticorruption instruments should be reconsidered and revised so that the human rights approach should be part of the anticorruption regimes.
- It is also recommended that the anticorruption agencies and the human rights institutions in the region, should work in a coordinated and cooperative manner by creating a common avenue so as to combat corruption and at the same time enhance the human rights protection and promotion strategies. To this end, the regional government of the study area should establish binding forum so as to enable collaboration and cooperation between NHRIs and ACCs thus the complementarity between anticorruption efforts and human rights promotion and protection can be capitalized upon through mutual mainstreaming.
- The notion of corruption as if it is “a victimless act” should be changed. Therefore, it is recommended that the regional government should formulate the policy direction that creates installs awareness with in the society that the incidence of corruption endangers the human rights of individuals as well as the group as a whole, so that they understand that corruption is not a victimless rather it affects and violates their human rights.
- The realization of human rights creates conducive environment for effectively preventing and remedying corruption, which in turn, enables the regional and national human rights mechanisms, including the national human rights institutions to play their role in the fight against corruption and hence, it is recommended that such human rights institutions should be able to handle complaints, investigate human rights abuses and violations caused by corruption, exposing the impact of corruption on human rights and make recommendations to enhance anticorruption efforts.

Bibliography

Books

Abdusselam A., the Human Rights case Against Corruption.

Ackerman, R. (1999), Corruption and Government: Causes, Consequences and Reform, Cambridge University Press, Cambridge.

Alan, R. (1980), The Philosophy of Human Rights: International Perspective, West Port, Connecticut, Green Wood press.

Andrei, T. and Matei A. (2009), The Corruption: An Economic and Social Analysis, Editura Economica.

Angela B.House and Others, Corruption: A Human Rights Impact Assessment Political Brief, Universal Rights Group.

Baehr, R. (1999), Human Rights Universality in Practice, Macmillan press.

Besson S. and Tasioulas J. (eds) (2010), The Philosophy of International Law, oxford University press, New York.

Bracking, S. (ed) (2007), Corruption and Development, The Anti-Corruption Campaigns, PALGRAVE MACMILLAN, New York.

Brigit Toebes, Human Rights, Health Sector Abuse and Corruption, Working Paper No-64

Christopher R. Yukins, Integrating Integrity and Procurement: The United Convention against Corruption and the Unicitral Model procurement Law Ngira David Otieno, Corruption and Human Rights: The Role of Judicial Activism in The Fight against Corruption

Gudeta Kebede, political Corruption; Political and Economic State capture in Ethiopia

Hope, R. and C. Chikulo (eds) (2000), Corruption and Development in Africa-Lessons From Country Case Studies, Palgrave Macmillan. RA. Johnson (ed) (2004), The Struggle Against Corruption: A Comparative Study, PALGRAVE MACMILLAN.

James Thuo Gathii, Defining the Relation Ship between Human Rights and Corruption Anna Krajewska and Grazgort Makowski, Corruption, Anti- Corruption and Human Rights: The case of Poland's Integrity System (Sept 2017)

James, N. (1987), Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of

Joanna Drewert and Kaustuv Banerjee, Linking Human rights Anti-corruption compliance: A good practice Note Endorsed by the United Nations Global Compact Human Rights and Labor Working Group (Dec 2016).

Joe Ghartey, Comparative Analysis of Anticorruption Legislation in the Republic of Ghana with the United Nations Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption.

Julio Bacio and Terracino (2008), Corruption as a violation of Human Rights

Kolawole Olanian, African Union Convention on preventing and Combating Corruption: A critical Appraisal, Amnesty International.

Liber Amicorum– In honour of a Modern Renaissance Man, His Excellency Gudmundur Eiriksson, O.P. Jindal Global University, Universal Law Publishing, pp415-429.

Martha Karua, the Human Rights Dimension of Corruption: Tackling Corruption after a Transition

Mathew Murray and Andrew Spalding, Freedom from Official Corruption as a Human Right, Brookings (Jan, 2015).

Pearson, Z. (2013). An International Human rights Approach to Corruption. In: p. Lamour and Wolanin, N. (ed), Corruption and Anticorruption. Canberra: ANU E Press.

Philp, M. (2002). Conceptualize Political Corruption. In: A. Heidenheimer and M. Johnston, ed., Political Corruption: Concepts & Context, 3rd ed. New Brunswick, N.J: Transaction Publishers.

Ralph Hemsley, Human Rights and Corruption: States' Human Rights Obligation to Fight Corruption

Rotberg, RI. (2004), *When States Fail: Causes and Consequences*: Princeton University Press, Princeton.

Rotberg, RI. (2009), *Corruption, Global Security and World order*, World Peace Foundation and American Academy of Arts & Sciences.

Sekkat, K. (2018). *Is corruption curable*, 1st ed. London: Palgrave Macmillan.

Sepúlveda Carmona, M. (2017). *The Role of National Human Rights Institutions in the Fights Against Corruption*.

Shue, H. (1980). *Basic rights*. Princeton: Princeton University Press.

Spencer-Oatey, H. (2012). *What is culture? A compilation of quotations*. GlobalPAD Core Concepts.

Spiermann, O. (2007). *Judge Max Huber at the Permanent Court of International Justice*. *European Journal of International Law*, 18(1), pp.115-133.

Šumah, Š. (2018). *Corruption, Causes and Consequences*. In: V. Bobek, ed., *Trade and Global Market*. London: Intech Open.

Tanzi, V. and Davoodi, H. (2000). *Corruption, Growth, and Public Finances*. IMF Working Papers, 00(182).

Thomas H. Speedy Rice and Andra Marshal, *Best practices Combating Corruption and its Impact on the Enjoyment of Human Rights: An Educational Prospective*

Articles, papers and Reports

Amundsen, I. (1999). *Political corruption: An Introduction to the Issue*. CMI working paper. Berge: Chr. Michelsen Institute.

Andersen. M. (2018). *Why Corruption Matters in Human Rights*. *Journal of Human Rights practice*, 10(1), pp.179-190.

Antonio Argandona, (2006), *the United Nations Convention against Corruption and Its Impact on International Companies*, Working Paper (WP No 656).

Anukansia, K (2010). *Corruption: The Catalyst for the violation of human rights*, Journal of the National Anticorruption Commission.

Arsema, J. *A Review of the Effectiveness of the Federal Ethics and Anti-Corruption Commission of Ethiopia*.

Bacio Terrcinio, J. (2012). *The international legal framework against corruption*, Cambridge: Intersentia.

Backer, Larry Catá. *Multinational Corporations, Transnational Law: The United Nations' Norms on the Responsibilities of Transnational Corporations as a Harbinger of Corporate Social Responsibility in International Law*. In: *Columbia Human Rights Law Review*. Vol.37 (2005)

Boersma, M. (2012). *Corruption: A violation of human rights and a crime under international law*. Antwerp-Cambridge-portal: Intersentia.

Boyale, K. and Shah, S. (2013). *Thought, Expression, Association, and Assembly*, In: D. Moeckli, S. Shah and S. Sivakumaran, ed., *International Human Rights Law*, 2nd ed. Oxford: Oxford University press, pp.217-237.

Bridging the Global Divide on Human Rights: A Canada-China Dialogue. Edited by Errol P. Mendes and Anik Lalonde-Roussy. Aldershot, (Ashgate Publishing, Ltd.) 2003.

Buckley, Marella. *Anti-Corruption Initiatives and Human Rights: the Potentials*. In: *Human Rights and Good Governance: Building Bridges*. The Hague, (Martinus Nijhoff Publishers) 2002, pp. 173-201

Carr Center for Human Rights, The linkages, the Challenges and Paths for progress (April, 2018).

Carr, I. (2007). *Fighting corruption through Regional and International conventions: A satisfactory Solution?* *European Journal of Crime, Criminal Law and criminal justice*

Carr, Indira. *Fighting Corruption through Regional and International Conventions: A Satisfactory Solution?* In: *European Journal of Crime, Criminal Law and Criminal Justice*. (2007), pp. 121-153.

Desta Asayehegn, Curbing Corruption in Ethiopia: Applying Democratic Autonomy in the Local Level.

Deva, Surya. U.N.'s Human Rights Norms for Transnational Corporations and Other Business Enterprises: An Imperfect Step in the Right Direction? In: ILSA Journal of International & Comparative Law Vol. 10 (2004). p. 493.

Diarra, G. and Marchand, S. (2019) Environmental compliance, corruption and Governance: Theory and Evidence on Forest Stock in Developing Countries, Centre et de Recherches sur le Development International.

ECA and AU Advisory Board for Corruption, Combating Corruption, Improving Governance in Africa: Regional Anticorruption Program for Africa (2011-2016).

European Parliament, Report on Corruption and Human Rights in Third Countries (Feb 2017).

FEACC and UNODC, Country Review Report of Ethiopia : The Implementation by Ethiopia of Articles 15-42 of Chapter III “Criminalization and Law enforcement” and Articles 44-50 of Chapter iv “International Cooperation” of the United Nations Convention Against Corruption for Review Cycle (2010-2015).

Geneva Academy and UNHCHR, Human Rights and Countering Corruption.

Gorta, A. (2001). Research. A tool for Building Corruption Resistance. In: Lamour and Wolanin, N. ed., Corruption and Anticorruption. Camberra: Asia Pasific Press.

Governance, Corruption and Economic Performance. Edited by George T. Abed and Sanjeev Gupta. (International Monetary Fund) 2002. Gow, David. CBI Cries Foul over UN Human Rights Code. In: The Guardian. 8 March 2004.

Hemsley, R. (2015). Human Rights and Corruption-States’ Human rights obligation to fight Corruption. Journal of Transnational Legal Issues, 2(1).

Human Rights Council, Final Report of Human Rights Council Advisory Committee on The Issue of Negative impact of Corruption on the Enjoyment of Corruption.

Human Rights Council, the Resolution on the Negative Impact of Corruption on the Enjoyment of Human Rights, Res. No 35/25.

Inter-American Commission on Human Rights, A Resolution on Corruption and Human Rights, Res.No.1/18.

Janelle Plummer (2012), Diagnosing Corruption in Ethiopia: Perceptions, Realities, and the Way Forward for Key Sectors, World Bank.

Johnston, M. (1998). Fighting Systemic Corruption: Social Functions for Institutional Reform. The European Journal of Development Research, 10(1), pp.85-104.

Lex Mundi Publication, Best practices in preventing Fraud And Corruption in Global Business

Linking Human Rights to Anti-Corruption: How Corruption Connects with Human Rights.

Peirone, F. (2018). Corruption as a Violation of International Human Rights: A Reply to Anne Peters. European Journal of International Law, 29(4), pp.1297-1302.

Peters, A. (2015). Corruption and Human Rights. Basel Institute on Governance Working paper series No. 20. Basel: Basel Institute on Governance. Transparency International, Corruption Perception Index, 2016.

Peters, A. (2018). Corruption as a Violation of International Human Rights. European Journal of International Law, 29(4), pp.1251-1287.

Raul Wallenberg Institute of Human Rights and Humanitarian Law, Report on Anticorruption and Human Rights: How to Become Mutually Reinforcing.

Raul Wallenberg Institute of Human Rights And Humanitarian Law, The Nexus Between Anticorruption Human Rights (2018).

Report of Stake Holders on Corruption and Human Rights, Gaborone, Botswana (March, 2011).

Tesfaye Shamebo, Anti-Corruption Efforts in Ethiopia.

The African Union Convention on Corruption and NEPAD's African Peer Review Mechanism (May, 2005.

The Centre for Environmental Law and Community Rights, The Australian Conservation Foundation. Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large Scale Logging Industry. Port Moresby 2006.

The Resolution on the Negative Impact of Corruption on the Enjoyment of Human Rights (Resolution no 23/9).

Transparency International and International Council on Human Rights Policy, Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities.

Transparency International and International Council on Human Rights Policy, Corruption and Human Rights: Making the Connection.

UNDP Governance Center, The Impact Of Corruption on The Human rights Based Approach To Development, Oslo, (Sept 2004).

University of Oslo, Corruption as a Threat to Human Rights: A Proposal for Reform of the International Legal Regime.

Water Integrity Network, Corruption and Human Rights to the Water and Sanitation: Human Rights Approach to Tackling Corruption in the Water Sector.

Legal Instruments

Additional Protocol to the Criminal Law Convention on Corruption opened for signature on 15 May 2003 and entered in to force on 1 February 2005.

African Charter on Human and Peoples' Rights adopted on 27 June 1981 in Nairobi and entered in to force on 21 October 1986.

African Union Convention on preventing and Combating Corruption adopted on 11 July 2003 at the African Union summit in Maputo, Mozambique and entered into force on 5 August 2005.

American Convention on Human Rights adopted on 22 November 1969 in San Jose, Costa Rica and entered in to force on 18 July 1978.

American Declaration on Human Rights adopted by the ninth international conference of American states, Bogota, Columbia in 1948.

Convention on the Elimination of all forms of Discrimination against Women adopted by General Assembly Resolution A/RES/34/180 of 18 December 1979 and entered in to force on 3 September 1981.

Convention on the Rights of the Child adopted by General Assembly resolution A/RES/44/25/ of 20 November 1989 and entered in to force on 2 September 1990.

Council of Europe Civil Law Convention on Corruption adopted at Strasbourg in 1999.

European Convention on Human Rights and Fundamental Freedoms adopted on 4 November 1950 in Rome and entered in to force on 3 September 1953.

Inter-American Convention against Corruption adopted on 29 March 1996 at Caracas, Venezuela and entered in to force on 3 June 1997 under the framework of Organization of American states.

International Convention on the Elimination of all forms of Racial Discrimination adopted by General Assembly Resolution A/RES/2106/ (XX) of 21 December 1965 and entered in to force on 4 January 1969.

International Covenant on Civil and Political Rights adopted by the General Assembly on 16 December 1966 and entered into force on 23 March 1976.

International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly on 16 December and entered into force on 3 January 1976.

Resolution 99(5) of the Committee of Ministers of the Council of Europe: Agreement Establishing the Group of States against Corruption adopted on 1 May 1999.

Revised Federal Ethics and Anticorruption commission proclamation, proclamation No. 1236/2021, art.20.

South Nation, Nationalities and Peoples 'Regional State Disclosure and Registration of Assets, Proclamation No 138/2011, Debub Negarit Gazeta, Addis Ababa, Branna Printing Enterprise.

South Nation, Nationalities and Peoples' Regional State Ethics Liaison Unit Establishment Proclamation Number 84/2011, Debub Negarit Gazeta, Addis Ababa, Branna Printing Enterprise.

The corruption Crimes proclamation, Proclamation No. 881/2007, 21th Year, No.36; The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.434/2005, 11th Year, No. 19.

The Criminal Code of FDRE, proclamation No.414/2004.

The Federal Attorney General Establishment Proclamation, Proclamation No. 943/2016, 22nd Year No.62.

The Lima Declaration against Corruption adopted on the 8th International Anti-Corruption Conference, held in Lima, Peru, 7-11 September 1997.

The revised Anticorruption special Procedure and rules of Evidence (Amended), Proclamation No.882/2015, 21th Year, No.37.

The Revised Federal Ethics and Anticorruption Commission Establishment Proclamation No.433/2005, Federal Negarit Gazzeta, 7th Year No.23.

The Revised Federal Ethics and Anticorruption Commission Establishment (Amendment) Proclamation, Proclamation NO. 883/2015, 21th Year No. 38.

The Southern Nation, Nationalities and Peoples' Regional State amended Ethics and Anti-Corruption Commission Establishment Proclamation No. 142/2014, Debub Negarit Gazeta, Addis Ababa, Branna Printing Enterprise.

The Southern Nation, Nationalities and Peoples' Regional State Ethics and Anti-corruption Commission establishment Proclamation No. 48/2002, Debub Negarit Gazeta, Addis Ababa, Branna Printing Enterprise.

United Nations Charter signed on 26 June 1945 in San Francisco and Came into force on 24 October 1945. Universal Declaration of Human Rights adopted and proclaimed by the General Assembly Resolution 217 A (III) of 10 December 1948.

United Nations Convention against Corruption adopted by General Assembly Resolution G.A. Res. 58/4, U.N. Doc. A/RES/58/4 of 31 October 2003 and entered in to force 9 December 2005.

Vienna Declaration and Program of Action, adopted by the World Conference on Human Rights held in Vienna on 25 June 1993.

Web sites

< <https://www.unhcr.org> >

< <https://www.gstore.org> >

< <https://www.transparency.org> >

< <https://www.U4.no> >

< <https://www.undp.org> >

< <https://www.worldbankorg.org> >

< <https://www.Wikipedia.org> >