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Is villagisation an acceptable solution?

- An analysis of villagisation programmes in Ethiopia in relation to the fulfilment of state obligations under the ICESCR and the concept of self-determination of indigenous people

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Contents

Summary

The concept of 'villagisation' refers to the resettlement of people from scattered areas into villages, in order to ensure efficient control and to provide basic social services and infrastructure. This kind of governmental practice has been implemented in various regions in Africa throughout the years. The main objective of villagisation is to provide, or improve, access to basic economic and social services.

The international human rights organisation, Human Rights Watch, has presented a line of reports concerning forced displacement of people, particularly highlighting the recent villagisation programme in Ethiopia. Because of villagisation in Ethiopia, large groups of indigenous people have been forced to move from their land and abandon their livelihood. Villagisation is a thus controversial concept, and evidence shows that states seriously fail to deliver in accordance with the objectives of the programmes. However, despite the failures states continue to implement these programmes.

According to the International Covenant on Economic, Social and Cultural Rights (ICESCR) states shall use appropriate means to progressively realise the rights set forth in the Covenant. States must provide at least a minimum standard of the most basic rights. Villagisation could possibly be considered as an appropriate measure for developing states in order to fulfil the obligations under the ICESCR. However as states often fail to deliver in accordance with the aims of the programmes; it is questionable to whether villagisation really could be an acceptable solution in reality. One of the purposes of this thesis is to analyse whether villagisation, in view of the main official objectives of the programmes, could be considered as an appropriate measure for a developing country, such as to Ethiopia, to fulfil the state obligations under the ICESCR.

According to international human rights, states have an obligation to protect the identity of indigenous people. The concept of indigenous people is however very controversial in Africa and in Ethiopia there is no official recognition of the concept. The identity of indigenous people is often associated with a specific territory as well as cultural practices and traditions. Because of villagisation, many indigenous peoples are forced to leave their homes and territories, with the risk of losing their identity. The right of self-determination is thus a very strong claim for indigenous people. The second purpose of this thesis is thus to analyse the possibility of indigenous people in Ethiopia to claim the right of self-determination in order to refuse to take part in villagisation programmes.

Sammanfattning

”Villagisation" är ett koncept som innebär förflyttning eller omlokalisering av personer i utspridda bosättningsområden in till byar. Detta sker ofta i syfte att säkerställa en effektiv kontroll och att för att kunna tillhandahålla grundläggande samhällstjänster och infrastruktur. Denna typ av statliga program har genomförts i olika regioner i Afrika genom åren. Huvudsyftet med omförflyttningarna är just att tillhandahålla eller förbättra tillgången till grundläggande samhällstjänster.

Den internationella människorättsorganisationen Human Rights Watch, har presenterat en rad rapporter som behandlar tvångsförflyttning av människor. Organisationen har särskilt belyst de senaste omlokaliseringsprojekten i Etiopien. På grund av dessa projekt har stora grupper av urfolk tvingats flytta från sin mark och överge sitt levebröd. Användandet av omlokaliseringsprogram, eller förflyttningsprogram, är kontroversiellt och allvarliga brister har även kunnat påvisas vad gäller ländernas uppfyllande av målen. Trots dessa brister är det många länder som fortsätter med aktiviteterna.

Enligt den Internationella konventionen om de ekonomiska, sociala och kulturella rättigheterna, ska stater vidta lämpliga åtgärder för att successivt realisera de rättigheter som anges i Konventionen. Staterna måste åtminstone tillhandahålla en miniminivå av de mest grundläggande rättigheterna. Omlokaliseringsprojekt, kan mycket väl betraktas som lämpliga åtgärder för utvecklingsländer i syfte att uppfylla de skyldigheter som följer av Konventionen, men med tanke på att staterna ofta misslyckas med att leverera i enlighet med målen för programmen, kan det ifrågasättas huruvida detta är en godtagbar lösning i praktiken. Ett av syftena med denna uppsats är att analysera huruvida omlokaliseringsprogram, med sikte på de viktigaste officiella målen, skulle kunna betraktas som en lämplig åtgärd i ett utvecklingsland som t.ex. Etiopien, för att uppfylla statens skyldigheter i enlighet med Konventionen.

I enlighet med internationella mänskliga rättigheter, har stater en skyldighet att skydda identiteten hos ursprungsbefolkningar. Frågan om urfolk är mycket kontroversiell i Afrika och i Etiopien finns det inget officiellt erkännande gällande dessa folks existens. Identiteten hos urfolken är ofta sammankopplad med ett visst landområde och kulturella sedvänjor och traditioner. På grund av omlokaliseringsprojekten, tvingas dock många grupper av ursprungsbefolkning att lämna sina hem och landområden, vilket kan medföra risk för att identiteten går förlorad. Kravet på självbestämmande är således mycket starkt hos urfolken. Det andra syftet med denna uppsats är att analysera möjligheten för urfolk i Etiopien att åberopa rätten till självbestämmande för att vägra att delta i de statliga omlokaliseringsprogrammen.

Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
AU	African Union
CCPR	Human Rights Committee (Committee on Civil and Political Rights)
CESCR	Committee on Economic, Social and Cultural Rights
CSA	Central Statistical Agency
ECOSOC	United Nations Economic and Social Council
EHRCO	Ethiopian Human Rights Council
EPLF	Eritrean People's Liberation Front
EPRDF	Ethiopian People's Revolutionary Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
GA	General Assembly
HRC	Human Rights Council
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
OAU	Organisation of African Unity
SNNP	Southern Nations, Nationalities and Peoples
TPLF	Tigray People's Liberation Front
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous People
UNESCO	United Nations Educational, Scientific and Cultural Organization
WB	World Bank

1 Introduction

1.1 Background

The international human rights organisation Human Rights Watch (HRW) is continuously presenting investigative reports on human rights violations all over the world. During the last ten years, the HRW has presented a line of reports concerning forced displacements of people in Ethiopia under the new resettlement and villagisation programmes, particularly targeting people residing in the Gambella region and the lower Omo Valley, in the west respectively in the southwest of Ethiopia.

Ethiopia has experienced several different types of governments and political orientations during the last hundred years. In the first half of the 19th Century, there was a line of emperors, followed by a military junta in the 1970s. By the end of the century, the Federal Democratic Republic of Ethiopia (FDRE) was governed by the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), with the former Prime Minister Meles Zenawi, as the most powerful person.[1] Still today, the same party is holding the majority, and there are reasons to believe that it will continue to stay like this for the next five years, as the result of this year's state election is about to become public.[2]

Ethiopia is a multi-ethnic society, with more than 80 recognised ethnic groups. It is the second most populous country in the sub-Saharan region, and one of the poorest countries in the world, where almost 30 percent of the population is living below the poverty line. Out of a population of more than 90 million, about 85 percent are living in rural areas. It is a federal state, divided into nine national states, named after the largest ethnic group in the area. The borders have been decided based on settlement patterns, language and identity.

Villagisation, or resettlement, programmes have been implemented rather frequently in Africa for the last century, with governments promising improved socioeconomic standards. During the 1970s and 1980s, the basis for villagisation programmes were mainly ideological, connected with socialist ideals of collectivisation. The most recent villagisation programme in Ethiopia is not the first. There have been several programmes implemented throughout the years, particularly during the Derg regime.

[1] Meles Zenawi died in 2012, and was succeeded by the deputy minister, Hailemariam Desalegn; Copnall, J., (2012), 'Ethiopian PM Meles Zenawi dies after illness' *BBC News*, 21 August. Available at http://www.bbc.com/news/world-africa-19328356 [22 June 2015].
[2] The results of the 2015 election will be presented on 22 June 2015. Foltyn, S., (2015), 'Ethiopia's ruling party sweeps election', *Al Jazeera*, 27 May. Available at http://www.aljazeera.com/news/2015/05/ethiopia-ruling-party-eprdf-sweeps-elections-150527133916799.html [22 June 2015].

Villagisation programmes have been highly controversial, due to implementation problems, state coercion and the hidden agenda of the governments. All programmes have had a great impact on a large amount of people, both directly and indirectly, and there is a lot of research on the subject in various disciplines regarding the actual effects of the programmes. Unfortunately, very few studies show evidence of the concept being successful.

The phenomenon of villagisation is interesting in the sense that it involves many different human rights perspectives, both legal and others. Of particular interest is of course all reports of the human rights abuses linked to the execution of the programme but also the failure of the states to provide the basic rights for the people as promised. Inevitably, this raise questions regarding the validity of villagisation programmes.

In comparison of early villagisation schemes and more recent ones, there seems to be a slight change in regards to the objectives of villagisation. The official reasons may still be the same, but the attitude towards modernisation and development has changed. In the early schemes, political ideology played a larger part, regardless of its direction, but today globalisation is a very important factor with developing projects involving foreign investors.

1.2 Aim, purpose and method

The most common official objective for the implementation of villagisation programmes is the provision of, or improvement of, basic economic and social services, such as infrastructure, housing, health care, access to food and water, education, farming facilities and so on. In this master thesis, I will analyse villagisation from two perspectives, although relating to each other. The analysis will also include both a theoretic and a practical point of view.

In the first perspective, I will analyse the official objectives of the programme in relation to the rights put forth in the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the obligations of the state in to fulfil those rights. Ethiopia is a multi-ethnic society, and villagisation programmes affect many indigenous people and minority groups. In the second perspective, I will investigate the right of self-determination of indigenous people, and their possibility to refuse to take part in villagisation programmes on that ground.

In a wider sense, I will investigate whether villagisation schemes can be justified in relation to human rights law. In the smaller perspective, the questions that will be answered are firstly, whether villagisation can be considered a legitimate measure in order for states to fulfil their obligations under the ICESCR, and secondly, if in such a case, indigenous people in their claim of self-determination can refuse to take part in such a

programme. Bearing in mind, the negative experiences of villagisation, it is important to consider the implementation of the programmes in reality.

The purpose of this thesis is to study villagisation from a legal perspective and to examine whether state programmes such as villagisation, is a valid measure in regards to human rights law, and if such programmes should continue to exist or be abandoned. Additionally, the purpose is also to understand the situation of indigenous people in a multi-ethnic society such as Ethiopia, where various development projects involve resettlement schemes that affect indigenous peoples with strong ties to their land.

For the purpose of this thesis, Ethiopia serves a case example. Ethiopia is one of the poorest countries in the world, and lack of resources is one important factor in terms of the realisation of human rights. This factor is also important in regards to the existence of villagisation programmes, as villagisation is more common in Africa. The issue of lack of resources will thus be considered in the analysis. Another reason for why Ethiopia serves as an example is the existence of a larger variety of ethnic groups, possibly indigenous people, which raise concerns regarding their particular rights.

1.3 Scope and limitations

It is necessary to address the fact that the topic of this master thesis involves many issues in several disciplines, and it is crucial to be considerate in terms of scope and limitation. The amount of material is voluminous and comprising, thus it has been important to be strict in regards to the choice of material, as well as staying true to the subject. In order to reach a conclusion, it is important to be systematic. In this area of research, that is easier said than done, as the subject covers many areas interrelating with each other. The concepts of villagisation and human rights include an almost endless amount of different aspects and issues relevant to the subject; however, there is only a fixed amount of space to elaborate on. Consequently, I have chosen to leave out interesting side tracks in order to keep it stringent. In this regard, only a few aspects will be mentioned, such as for instance the discussion on human rights as a universal in relation to cultural relativity.

The first question or perspective can be divided into two parts. In the first part, the analysis will be more theoretical, focusing on the obligations of the state in regards to the right of food, adequate housing and health, which is in line with the official aims in the programme. The amount of issues under the ICESCR has thus been narrowed down, to include only the ‘basic’ rights. The analysis will deal with the rights in a set, as the main issue is the validity of the resettlement programme, for realising these rights. In this first part, it is assumed that the execution of the programme is in conformity with human rights on all levels. The second part of the first question will be the involvement of the more practical side of villagisation, including the implementation issues and the underlying and unofficial objectives.

In most legal reports on villagisation, the focus is on the violations of human rights and the significant breaches. The starting point of this thesis is however a more optimistic view on villagisation as a possible solution, and I will not discuss any of the violations of human rights occurring in the villagisation schemes.

In regards to indigenous people and self-determination, I have focused solely on the right of self-determination put in relation to only indigenous people. In this area, I have strictly removed any other legal aspects related to indigenous people or self-determination. There is a close relationship between minority issues and indigenous rights, but I have only briefly mentioned this in the thesis, as minority issues falls outside the scope of the essay.

Regarding the legal framework, I have tried to be strictly focused on the international and national documents relevant to the topics. For instance, in regards to international law, I have focused only on the ICESCR and in regards to national law in Ethiopia, I have chosen only to analyse the Constitution. Even if there were legal aspects from the different regions in Ethiopia applicable to the topic, the villagisation programmes are often national programmes, thus the main legal document would be the Constitution. The Constitution is also the basis for the legal framework in the various national states.

1.4 Sources, references and criticism

As this is a legal analysis, I have tried to focus as much as possible on legal material, such as primary and secondary sources. In regards to villagisation, official information and references is scarce, and information is more or less second hand, based on different investigations and analyses.

Regarding villagisation there is much research on the concept from an agricultural, economical, or sociological perspective. Albeit, it has been rather difficult to find research material addressing villagisation from a legal human rights perspective, apart from the reports by HRW. In many of the reports on villagisation, even if based on empirical studies, the material is often of a descriptive character, not always addressing particular issues or solutions in regards to the concept of villagisation. It should also be noted that many empirical studies are based on villagisation programmes from the 70s, 80s and 90s, suggesting that some studies are old and in inaccurate. However, in some cases new studies have been made on the historical programmes, although in such cases it is difficult to get the full picture of the implementation of the program at that time.

When analysing material in regards to villagisation in developing countries it is necessary to be cautious to the information presented. Much information regarding the recent implementation of villagisation

programmes have been presented by the HRW. However, the difficulty in retrieving correct information empirically has been highlighted in these reports. Few people are willing to discuss the problems, in fear of any reprisals. It should also be borne in mind that even if some people have the courage to speak, it is not always possible to crosscheck the information with independent sources. The level of accuracy in the material is thus uncertain. Much information in the reports is second hand, presented by human rights workers, government officials, and journalists.

In regards to the material presented by Ethiopia in state reports to the various UN bodies, it is also crucial to be careful about the accuracy in the information presented. There may be incentives to provide the public and the international community, with either a more positive picture than the reality or a more negative, depending on the purpose of the information. This is particularly evident in the case of government official claiming that villagisation programmes are executed in full accordance with human rights, despite the strong evidence of the opposite situation. In regards to statistical information about Ethiopia, the same notion is applicable. It is very difficult to find independent and accurate information, as it is impossible to determine any research methods and verify the results. In that respect, it should be taken into account that any statistical information should be seen as indications.

1.5 Structure and disposition

As mentioned above, it is important to be systematic in order to investigate and analyse a multi-facetted subject as villagisation. Regarding the structure of this thesis, I have tried to be systematic and organise it in what I believe a logical order.

The second chapter will be an introduction to villagisation as a concept, including both historical and more recent experiences. In addition to that, there is a presentation of Ethiopia, the case example, and in the end of the chapter, the recent villagisation scheme have been presented as a reference to HRW reports.

In the third chapter, the legal framework is presented, including both an international and a national perspective, starting with a general introduction, moving to the rights and obligations in the ICESCR. Then the focus turns to self-determination and indigenous people. Also in the legal chapter, there is a particular focus on Ethiopia, including some relevant aspects in regards to Africa as a whole.

The fourth and final chapter includes the analysis and a short conclusion, with an attempt to answer the questions set forth in this introductory chapter.

2 Villagisation in Ethiopia

In 2012, the non-governmental organisation Human Rights Watch released two specific reports regarding the situation of human rights abuses in Ethiopia, due to governmental resettlement programmes. The first report, "Waiting Here for Death"[3], was released in January, describing the situation of forced displacements of indigenous peoples in the western region of Gambella, in line with the ongoing 'villagisation' programme. The second report was released in June, "What Will Happen If Hunger Comes?"[4] describing the same situation but in case of indigenous people living in the lower Omo Valley, in the southwest area of the country.

2.1 Background

2.1.1 What is villagisation?

Regarding the concept of villagisation, the New Oxford American Dictionary suggest the following definition "the concentration of the population in villages as opposed to scattered settlements, typically to ensure more efficient control and distribution of services such as health care and education"[5]. Teketel Abebe Kebede suggests that villagisation is referring to a state programme or campaign under which farmers are relocated from scattered settlements into 'nucleated' villages. Kebede further states that villagisation technically "is about changes or interventions in rural settlement patterns"[6].

To conclude, the definitions suggest that villagisation is a matter of relocating people from their original settlement into villages, presumably looking to better socio-economic facilities. The definitions also suggest an association to some sort of formal national governmental programme, i.e. the resettlement is undertaken by the state. It would be too far-fetched to include an element of force, even though Kebede is moving in that direction. Hence, it is difficult to determine whether the term *villagisation* should be perceived as a positive or negative term. Terms such as *resettlement* or *relocation*, suggest a rather neutral approach, whereas villagisation as mentioned could be perceived as more negative, perhaps because it is

[3] Human Rights Watch, (2012), *"Waiting Here For Death", Forced Displacement and "Villagization" in Ethiopia's Gambella Region*, January. Available at http://www.hrw.org/reports/2012/01/17/waiting-here-death [HRW]
[4] Human Rights Watch, (2012), "*What Will Happen If Hunger Comes", Abuses against the Indigenous Peoples of Ethiopia's Lower Omo Valley*, June. Available at http://www.hrw.org/reports/2012/06/18/what-will-happen-if-hunger-comes
[5] "villagisation", Oxford Dictionaries, (2011), Oxford University Press. Retrieved at http://www.oxforddictionaries.com/definition/english/villagization [5 June 2015].
[6] Kebede, T. A., (1998), "*Tenants of the State", The Limitations of Revolutionary Agrarian Transformation in Ethiopia, 1974-1991*, Dissertation in Sociology, Department of Sociology Lund University, Lund, p. 204

deriving from a concept, which has involved many negative elements throughout history.

Villagisation programmes, or resettlement programmes, have been implemented in various parts of the world during the last century, particularly common and widespread in Africa. Apart from Ethiopia, there is evidence of programmes taking place in several countries, e.g. Tanzania, Rwanda, Zimbabwe, South Africa, Cameroon, and more.[7]

During the period of 1973-1977, villagisation programmes were implemented in Tanzania. The consequences were considerable changes to the rural areas of the country, and with villages of about 1200 inhabitants as the basic unit of rural settlements. Initially the aim of the programme was to develop small industries, as the villages were mostly depending on agriculture. Adding to the definition of villagisation, Taimi Sitari suggests that villagisation is "an abandonment of the former pattern of semi-permanent settlement and the adoption of permanent dwellings"[8]. One aim with the villagisation programme in Tanzania, an agricultural reform, was to achieve a change from private to collective production, where the village was supposed to function as a corporate production unit. [9] The Tanzanian president at the time, named this particular villagisation concept *ujamaa*, to describe his interpretation on socialism.[10] Villagisation rhymed well with the idea of the president in that "a good life was possible for those who lived in villages, but not for those who lived on small family farms dispersed over wide areas"[11]. The villagisation programmes meant comprehensive changes in the livelihood and lifestyles of the people in the countryside.[12]

Prior to the independence of Tanzania, the colonial powers implemented villagisation programmes mainly to prevent health hazards, and about 90 000 people were relocated. However, the movements were involuntary, often executed by force, which resulted in the relocated returning home.[13]

After the genocide in Rwanda, the government had to manage the needs of housing for an immense amount of people returning after the war. Consequently, the Rwandan government launched a resettlement programme called *Imidugudu*. The programme, initially aiming at providing housing to the homeless, ended up involving all scattered households in the country, which were regrouped into villages. The programme was implemented with support from various international organisations but

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[7] De Wet, C., (2012), 'The Application of International Resettlement Policy in African Villagization Projects', *Human Organization*, Vol 71, No 3, p. 397
[8] Sitari, T., (1983), 'Settlement Changes in the Bagamoyo District of Tanzania as a Consequence of Villagization', Reprint from *Fennia*, 161:1, Helsinki, p.2
[9] *Ibid*.
[10] Coulson, A., (2013), 'Ujamaa and Villagization' in *Tanzania: A Political Economy*, Oxford University Press, Oxford, p. 280. Oxford Scholarship Online, (September 2013), (retrieved at DOI:10.1093/acprof:oso/9780199679966.001.0001)
[11] *Ibid*. p.282
[12] Sitari, *supra* note 8 at p. 2-3
[13] *Ibid*. p. 4

became controversial as it went on, implying a possible hidden agenda and political prospects.[14]

Many villagisation schemes, in different countries, have had agendas aiming at modernisation or development, but the results have been socio-economically negative. In cases where development have been key, the idea is that the people could share the benefits from the outcome of the project, even though relocation being a prerequisite for implementation of the development project to begin with.[15] In South Africa for instance, the government sought to compensate for the ravages after apartheid by implementing systems to make land use more effective, however the system that was utilised was the same that gave rise to the problems the villagisation programme was intended to address.[16]

2.2 The case of Ethiopia

2.2.1 Brief political history of Ethiopia

In the beginning of the 20th Century, Ethiopia entered into three rather important agreements with France, Britain and Italy, regarding the borders of the country. With some modifications, the agreements could be regarded as the basis of the borders of modern day Ethiopia. The ruler of the country at the time was the emperor Menelik II, who managed to establish control over much of the present day Ethiopia, in line with these diplomatic operations. The agreements were politically significant but not without consequences. For instance, the southern and southwest borders were constantly violated, as the border agreements did not reflect on the situation of the people residing in the area, as to their need for seasonal movements and the integrity of the group.[17] The emperor died in 1913 and after some rivalry between the assumed heir and another noble, Menelik's daughter, Zewditu, became empress, with Ras Tafari as regent and named heir.[18] Due to Ras Tafari's quest for power, Empress Zewditu, was more or less forced to hand the power to Ras Tafari, and only seven months after her death in 1930, Ras Tafari, was crowned Emperor Haile Selassie I. Thus, an era of absolute monarchy began, with feudalism as the agrarian order.[19] For the

[14] Hilhorst, D. and M. van Leeuwen, (2000), 'Emergency and Development: the Case of *Imidugudu*, Villagization in Rwanda', *Journal of Refugee Studies*, Vol. 13, No. 3, p. 265; Isaksson, A., (2011), 'Manipulating the Rural Landscape: Villagisation and income generation in Rwanda', *Working Papers in Economics No 510*, Univ. of Gothenburg, p.1
[15] De Wet, *supra* note 7 at p. 396-397
[16] *Ibid*. p. 399
[17] Zewde, B., (2002), *A History of Modern Ethiopia 1855-1991*, 2nd ed., Addis Ababa University Press, Addis Ababa, p.111, 113-114; Wubnhe, M., and Y. Abate, (1988), *Ethiopia. Transition and Development in the Horn of Africa*, Westview Press, Colorado, p. 12-14
[18] Zewde, *supra* note 17 at p.128
[19] *Ibid*. p. 135-137; Wubnhe, *supra* note 17 at p. 13-17; Kebede, *supra* note 6 p. 86-87. For more information about the feudal society of Ethiopia, see Kebede, p. 89 fwd.

next half a century, Ethiopian life was dominated by Haile Selassie's personality and the country came to be identified with him. Haile Selassie pushed reforms aiming at a centralised government and a modern Ethiopia, for instance expanding the school system and organising the judicial system. Selassie was also behind Ethiopia being one of the first countries to become member of the League of Nations and to the UN.[20] Haile Selassie was very busy being 'immortal', trying hard to modernise the country yet in the same time staying traditional. Failing to pay enough attention to the trouble emerging in the country, partly due to the unsolved conflicts between modernity and tradition, the revolution in 1974 was a fact. Opposition in the country had been growing on and off for decades, including farmers opposing against demands on their land, nationalities and peoples fighting for self-determination, intellectuals fighting for equality and justice, and so on. The opposition was also organised in ethnic and regional separatist movements.[21]

A widespread disapproval was flourishing in the rather well structured military, and by formally creating a committee called the *Derg*, the military was organising an opposition.[22] The Derg managed to establish some governmental powers next to the emperor but it only lasted for about a month before Selassie's powers decreased, as the Derg dismantled important institutions and finally proclaimed the deposition of the emperor in 1974. The Derg, or the Provisional Military Administrative Council as they now had transformed into, assumed full state power and dissolved the parliament. After that, all opposition was considered as treason and all strikes and demonstrations were banned.[23]

According to Bahru Zewde, the Derg has "passed into history … as one of the most doctrinaire Marxist regimes that has appeared in the twentieth century"[24]. This would describe the political ideology and orientation of the Derg, governing the country until 1991, with Mengistu Haile Mariam as the totalitarian dictator.[25] During the regime, rural guerrilla groups was formed in different parts of the country, particularly in the north, despite several suppressing campaigns by the Derg to discourage nationalist insurgencies. In May 1991, the Tigray People's Liberation Front (TPLF) and the Eritrean People's Liberation Front (EPLF) entered into Addis Ababa and Mengistu had to run for his life. Not long after, the forces of the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) entered into the city as well.[26] The EPRDF has since been the ruling party of the government of the

[20] Wubnhe, *supra* note 17 at p. 17-23
[21] *Ibid*.; Zewde, *supra* note 17 at p. 201-203, 209;
[22] *Ibid*. p. 42-45
[23] Zewde, *supra* note 17 at p. 233-236
[24] *Ibid*. p. 243
[25] *Ibid*. p. 243-248
[26] *Ibid*. p. 256, 268

Federal Democratic Republic of Ethiopia[27], with Meles Zenawi, who died in 2012, as the long lasting Prime Minster.[28]

2.2.2 Past villagisation schemes in Ethiopia

According to Teketel Abebe Kebede, the Derg had an interfering attitude towards rural agrarian matters, and considered collectivisation as the key measure to socialist agrarian reforms. During the military regime, various agrarian transformations were implemented, the first already in 1974.[29]

Following a rather devastating famine in the middle of the 1980s, the regime launched an emergency resettlement programme. It was considered a rather controversial scheme, aiming at moving farmer households from famine effected areas, from the north to the south western regions. The resettlement was to be finished within less than a year. As being an underdeveloped country at that time, the emergency programme was considered impressive, highlighting the organisational skills of the regime, to both mobilise and control the peasantry. The first formal introduction of villagisation as an official national programme was in 1985, which was a typical example of the intervening attitude of the regime and showed their mobilisation skills. The programme was actively implemented the following three years, and by 1988, more than 12 million farmers had been moved to core villages. Unfortunately, the agrarian policy was poor, in relation to agricultural production, and the farmers were still vulnerably to famine. The main official legitimate reason behind the villagisation programme, apart from reducing the vulnerability of famine, was to provide a minimum standard of social and economic services for the relocated citizens. Even if the Derg was considered strong in the undertakings of the relocation, the regime failed to fulfil the official commitments.[30]

Prior to the Derg, the villagisation and resettlement schemes were very limited. One objective of the resettlement programmes, both during the era of Haile Selassie and the Derg, was to ease the pressure on the population and the land in highly populated areas by moving people from the degraded land areas vulnerable to droughts. Other objectives were to improve the agricultural development in sporadically populated but fertile areas, as well as resettling nomadic pastoralist, such as indigenous people, from urban areas. All the villagisation programmes faced various problems, but even long established schemes failed to be self-sufficient. The lack of proper research regarding the resettlement sites, such as soil quality, climate, and diseases in the region meant serious problems, even though massive resources had been invested in the project. As the programme faced health

[27] Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Addis Ababa, 21 August 1995, [Ethiopian Constitution], art. 1
[28] Copnall, *supra* note 1
[29] Kebede, *supra* note 6 at p. 15-16, See also p. 60, 217
[30] *Ibid*.

hazards, soil drainage problems with the consequence of lost crop and so on, the resettlement programme resulted in the sites being abandoned.[31]

In the comprehensive villagisation schemes during the Derg, millions of farmers were obliged to demolish their houses and abandon their long inhabited homesteads. After the relocation, not only the resettled farmers complained, but also the inhabitants was complaining and blaming the villagisation programmes for the shortage of food and the disruption of livestock markets.[32] The problems that occurred for the inhabitants or the 'hosts', have also been confirmed by Gebre Yntiso, in that the resettlement of such a large amount of people exceeded the capacity of the resettlement site.[33] The regime on the other hand regarded the villagisation programme as the only solution to agricultural and rural development problems of the country.[34]

Villagisation later on became controversial, due to state coercion and the government acting on a hidden agenda, such as introducing large-scale collectivism, as well as trying to facilitate a larger supply of food grains, or using villagisation as a means of control of conflict areas. The official objectives of the villagisation programmes were still presented in terms of modernisation, promising service and infrastructure as well as improved housing conditions. Even if access to modern facilities, could be considered as positive, the resettlement programmes was expected to have a negative impact.[35]

One of the first areas affected by the nationwide villagisation scheme in 1985 was the Arsi region, southeast of Addis Ababa. The Arsi area was supposedly selected, as it was considered an 'easy' area, as many of the famers were rather new and thus did not have a particularly strong tie to the land. After an evaluation of the Arsi resettlement, John M. Cohen and Nils-Ivar Isaksson claimed that the continuation of the villagisation programme would encounter much more resistance in areas where the inhabitants would have a stronger connection to the land.[36]

2.3 The present situation of villagistaion in Ethiopia

Ethiopia is considered a country with great national resources and agricultural potential, with varied climatic and topographic regions. The

[31] *Ibid*. p. 194-196
[32] *Ibid*. p. 203-204
[33] Yntiso, G., (2003), 'Resettlement and the unnoticed losers: Impoverishment disasters among the Gumz in Ethiopia', *Human Organization*, Vol. 62, No. 1, p. 65
[34] Kebede, *supra* note 32
[35] *Ibid*.
[36] Cohen, J. M., and N.-I. Isaksson, (1987), 'Villagization in the Arsi Region of Ethiopia. Report prepared by SIDA Consultants to the Ethio-Swedish Mission on Villagization in the Arsi Region, December 1-14, 1986', *Rural Development Studies No. 19*, Swedish University of Agricultural Science, Uppsala, p. v-vii, x-xi

landscape consists of highlands with mountains, as well as lowlands and deserts in the outer areas in almost all directions. The diversity of the land suggest various forms of agricultural conditions, and depending on temperature, growing seasons, and settlement patterns, specific climatic zones, ecological zones, has been identified.[37]

According to the World Bank, Ethiopia is the second most populous country in the sub-Saharan Africa, with a population of about of 94,1 million in 2013[38], and where almost 85 percent of the population is living in rural areas.[39] It is also one of the poorest countries in the world, with almost 30 percent of the population living below the poverty line, even if poverty has decreased since 2000 due to agricultural growth.[40] In addition to this, Ethiopia is a multicultural society, and there are more than 80 different recognised ethnic groups in the country.[41] The FDRE is divided into nine federal states, named in accordance with the largest ethnic group in the area, and the borders have been decided based on settlement patterns, language and identity.[42]

As described above, the most recent villagisation programme in Ethiopia is not the first in the country. In most cases, resettlement projects have been related to land reforms and agricultural policies, or to curb conflicts and invigorate the security in villages. The Ethiopian Human Rights Council (EHRCO) has described situations where rather severe fights have occurred between different ethnic groups in Ethiopia, due to for instance land claims. Relocations has consequently been used as an instrument by the government to diminish the possibilities of further conflicts and to uphold internal security.[43]

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[37] Wubnhe, *supra* note 17 at p.3-6

[38] Ethiopia Overview, (2015), *The World Bank*, 5 April, http://www.worldbank.org/en/country/ethiopia/overview, [25 June 2015]; The result from the latest national census in 2007, showed a population of almost 74 million, see Central Statistical Agency, (2010), *Population and Housing Census Report-Country-2007,* (July 2010). Available at http://www.csa.gov.et/index.php/2013-02-20-14-51-51/2013-04-01-11-53-00/census-2007, [2 June 2015] [CSA]; Based on the national census in 2007, the estimated population in 2012, according to the CSA, would be about 84 million. See Central Statistical Agency, (2011), *Population Statistics Abstract, Population 2011*, p. 2. Available at http://www.csa.gov.et/index.php/2013-02-20-13-43-35/national-statistics-abstract/141-population, [2 June 2015].

[39] United Nations, Human Rights Instruments, (2009), *Core document forming the initial part of the reports of states parties, Ethiopia*, 6 February, HRI/CORE/ETH/2008, para 15. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/CoreDocuments.aspx

[40] Poverty in Ethiopia Down 33 Percent Since 2000, (2015), *The World Bank*, 20 January, Available at http://www.worldbank.org/en/news/press-release/2015/01/20/poverty-ethiopia-down-33-percent [25 June 2015]

[41] Human Rights Instruments, *supra* note 39 at para 16; According to the CSA, there are about 85 ethnic groups, CSA, *supra* note 38 at p. 73-74.

[42] Ethiopian Constitution, *supra* note 27 at art. 46, 47

[43] Ethiopian Human Right Council, (2003), *Compiled Reports of EHRCO (Vol. II), From May 1997 to August 2002*, April, Addis Ababa. See for instance the conflicts between Geri and Borena Oromo, p.149-150, the Oromo and Amhara, p. 177-182, and the Anuak and Nuer, p. 346.

2.3.1 HRW report - Waiting here for death

According to the Ethiopian government, as referred to by the Human Rights watch in the previously mentioned report "Waiting here for death", the last villagisation programme in the Gambella region of Ethiopia, was intended to improve socio-economic infrastructure. Local inhabitants believed that the programme was only a measure for the government to clean the land for commercial agriculture productivities and national resource extraction.[44]

In relation to other parts of Ethiopia, the Gambella region is considered a hot region, but with high quality soil and plenteous of water supplies due to the Nile. There are also a vast amount of natural resources, and a low density of people. Aspects that could be considered favourable for a government wishing to set grounds for commercial agricultural activities. The population in the Gambella region would consist of approximately six different ethnic groups, out of which the Nuer and the Anuak groups are the largest. The livelihoods of the two groups differ from each other and their languages are unique in the region, not understood by any other ethnic groups in the area.[45]

The Anuak identity is tied to the land and the rivers where they live, and according to the tradition, the group has lived in the region for 400 years. They have a traditional land base in the Gambella region that is used solely by their ethnic group.[46] The Nuer group first settled in eastern South Sudan and moved into the Gambella region during the late 19th century. Their major livelihood is their cattle, which is strongly connected to their ethnic identity and culture. The nomadic movements within their land during different seasons are mostly due to finding appropriate land for the cattle. The villagisation process directly threatens this practice. The Nuer group also values the scarification ritual, as a cultural practice.[47]

Since 2008, Ethiopia has leased out a lot of land in the country to agricultural investors, both to large-scale foreign investors and to small-scale Ethiopian investors.[48] This trend has shown to be rather dramatic, not the least to the people in the Gambella region who have been particularly affected. The government consider these rural areas as unused or unutilised.[49]

The last villagisation programme was aiming at four regions of the country, Gambella, Benishangul-Gumz, Somali, and Afar, and began in 2010. The villagisation programme involving Gambella, was considered a three year

[44] HRW, *supra* note 3 at p. 15
[45] *Ibid*, p. 16-17
[46] *Ibid*. p. 15-17
[47] *Ibid*, p.16-17
[48] Ethiopia – Land for Sale, (2014), *Al Jazeera*, 30 January. Available at http://www.aljazeera.com/programmes/peopleandpower/2014/01/ethiopia-land-sale-20141289498158575.html [26 June 2015]
[49] HRW, *supra* note 3 at p.17-18

programme, supposedly relocating about 225 000 people in the area. In all four regions, the total amount of people to be resettled was estimated to 1,5 million. During the ongoing official villagisation programme, the government also forced people to move from the Southern Nations, Nationalities, and People's Region, related to sugar plantations. These forced movements became a part of the official villagisation programme.[50]

According to official sources referred to by the HRW, the objectives of the villagisation programme in the Gambella region was to provide efficient and effective economic and social services, as well as enabling citizens to engage in good governance and democratic exercises. In the official villagisation plan, the aims were specified as to provide basic socioeconomic infrastructures, enabling food security and bring socioeconomic and cultural transformation of the people. According to the villagisation plan, all households of the indigenous peoples of the rural Gambella was to be included. [51]

In order to gather evidence The Human Rights Watch visited affected areas and carried out interviews with affected and involved people. According to the report, some of the people were moved to already existing villages, where some infrastructure was effective, while others had to build new villages themselves. In regards to the move of the indigenous groups of the Anuaks and the Nuers, the government approaches were different, including the lack of respect for the culture and livelihoods of the groups.[52]

According to the report, the villagisation programme was not without controversy or consequences. The report are presenting clear evidence of human rights abuses towards the people in the regions affected by the campaign and according to HRW, the process is not voluntary, despite the government's reassurances. The process has included a vast amount of human rights violations such as "forced displacement, arbitrary arrest and detention, beatings, rape, and other sexual violence. Residents have also been denied their rights to food, education, and adequate housing"[53]. In some cases, the inhabitants were promised schools, health clinics, access to water, grinding mills, cleared land for growing crops, and food aid for seven to eight months. As it became apparent that the government was not living up to its promises, some villagers abandoned the new village, either becoming refugees or returning to their homes.[54] The evidence is strong that the aim of the government was to make the land available for agricultural industries, and to lease the land to investors. As described in the report there appeared to be a strong link between the villagisation and the transfer of land for agricultural investment purposes, as well as the government making agricultural investments in regions cleared through the programmes.[55]

[50] *Ibid*. p 19-20
[51] *Ibid*.
[52] *Ibid*. p. 21-24
[53] *Ibid*. p. 25
[54] *Ibid*. p. 25-27
[55] *Ibid*. p. 54-55

In conclusion, the recent villagisation scheme in Ethiopia has included vast amount of human rights violations. Not many positive aspects have been presented, but instead many problems and unsatisfactory results. In relation to the HRW report, government officials have stated that the process has followed all human rights requirements, and that all resettlements have been voluntary and peaceful, thus ignoring the facts presented.

3 Legal framework

3.1 Introduction

The first major step taken by the UN to in regards to human rights was the adoption of the Universal Declaration of Human Rights (UHDR) in 1948. The Declaration is not legally binding, but widely accepted as a global standard of basic human rights. The rights expressed in the UDHR, were established in the two following legally binding documents, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which both entered into force in 1976. These documents, together with the UDHR, forms the so-called *International Bill of Rights*. Apart from these fundamental documents, the UN has adopted a wide range of different international instruments clarifying the rights in the UDHR as well as providing substance to them.[56]

According to Rhona K. M. Smith, the right to life is considered the most principal of the rights[57] and that all other rights add value to or elaborate on the quality of life.[58]

The most common understanding worldwide is that human rights forms a part of international law and structure, but that it is not all clear of the exact role of the concept within the structure.[59] Smith adds to this standing by arguing that international human rights is a "distinct branch of public international law"[60]. According to Smith, the discussions on the origins of human rights would be better suited in the philosophical discipline, even though human rights derive from the concept of the rule of law[61] and the international set of legal compilations is a codification of that concept.[62] Human rights are largely based on ethics and morals, and individuals would most likely enjoy those rights that are in conformity with the values of the community.[63]

Human rights are allegedly "universal, indivisible, interrelated and interdependent"[64]. This statement is essential in regards to the overarching ideology of human rights, re-established in the Vienna Declaration of

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[56] Smith, R. K.M., (2007), *Textbook on International Human Rights*, 3rd ed., Oxford University Press, Oxford, p.27-28, 35, 42.
[57] *Ibid*. p. 194
[58] *Ibid*. p. 3
[59] Shaw, M. N., (2003), *International Law*, 5th ed., CUP, Cambridge, p.247
[60] Smith, *supra* note 56 at p.4
[61] *Ibid*. p. 5
[62] *Ibid*. p. 7
[63] Shaw, *supra* note 59 at p. 248
[64] United Nations Human Rights Office of the High Commissioner for Human Rights, 'What are human rights?', Available from http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx [6 June 2015]

Programme of Action[65], but it is not without controversy, particularly in regards to the concept of cultural rights.[66] Jack Donnelly points out, that the Universal Declaration is an example of a political document, which has been recognised by almost all states[67], but in terms of the above-mentioned controversy, the set of rights have been criticised, as not being consistent with certain values in the more socialistic part of the world. That critique also highlights the conception of the rights expressed in the ICCPR being more important than those in the ICESCR, i.e. civil and political rights are superior to economic, social and cultural rights.[68]

Human rights are basically individual rights, no matter if there are rights or duties associated with the connection to a specific group or community, a culture or tradition.[69] Danilo Türk explains it "no individual lives in a vacuum"[70], which draws on Donnelly's implication, that all individuals belong to some sort of group. Helaine Silverman and D. Fairchild Ruggles add that even though human rights mainly focus on individuals in relation to the state, each individual are part of a larger context, which could create a potential clash between on the one hand the desire for cultural self-determination and on the other hand individuals, other groups, or the state referring to universal human rights principles.[71] Türk thus implies that there is a need for a fair balance between the rights of the individual, and the social and cultural norms relating to the relevant group.[72] William S. Logan emphasises that human rights consist of both collective and individual aspects, suggesting a possible appearance of conflicts, which in the greater perspective points at the tension between universalism and cultural relativism. Logan argues that it would have been useful in practice, if a hierarchy of the human rights was formed, which would reflect the comprehension of cultural rights being second hand to economic, political and social rights.[73]

In political theory, the philosophy of human rights is well debated. Depending on the perception of the world and international relations,

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[65] United Nations, General Assembly, (1993), *Vienna Declaration and Programme of Action*, 12 July, A/CONF.157/23, para 5

[66] Silverman, H., and D. F. Ruggles, (2007),'Cultural Heritage and Human Rights', in *Cultural Heritage and Human Rights*, Silverman, H. and D. F. Ruggles (eds.), Springer Science, New York, p.4

[67] Donnelly, J., (1998), *International Human Rights, Dilemmas in World Politics*, Westview Press, Oxford, p.22

[68] *Ibid*. p.24, See also Silverman, *supra* note 66 at p. 4.

[69] Donnelly, *supra* note 67 at p. 18

[70] Türk, D., (2008), 'Introduction: Group Rights and Human Rights', in *The Tension Between Group Rights and Human Rights, A Multidisciplinary Approach,* De Feyter, K. and G. Pavlakos, (eds.), Oxford and Portland, Oregon, p.2.

[71] Silverman, *supra* note 66

[72] Türk, *supra* note 70

[73] Logan, W. S., (2007), 'Closing Pandora's Box: Human Rights Conundrums in Cultural Heritage Protection', in *Cultural Heritage and Human Rights*, Silverman, H. and D. F. Ruggles (eds.), Springer Science, New York, p.39-40, 44. In his article Logan continues to dwell on three broad types of situations, where a conflict between cultural heritage and human rights can occur, see further p.40-44.

different values are advocated, indicating a variety of theories, views and possible results. Consequently, this creates a lot of discrepancies and difficulties to reach consensus, as has been highlighted by Donnelly in his presentation of different dilemmas of human rights in the world politics. [74] Depending on the political model, the views on human rights obligations and activities vary.[75] Donnelly has also described the classical divergence between the universality principle and the concept of relativism or cultural relativism. Simply put, this divergence can be clarified by stating that relativism perceive moral values as historically or culturally specific, rather than universally determined, which would indicate the opposite view, i.e. that human rights cannot be exposed to any modification in terms of history or culture. In view of this, Donnelly claims that it would be unrealistic to demand an implementation of human rights in the exact same way in all countries, which would be presumed in radical universalism.[76]

In line with Logan's statement of a first and second generation of rights, a third generation of rights is also suggested, involving group rights, i.e. rights that groups can exercise as a collective. In these set of collective rights, the right of self-determination, as part of the promotion of development, is considered one of them.[77]

3.2 Rights under the ICESCR

In order to create stability and well-being in the world community, stated as a necessity for peaceful and friendly relations between states, the UN shall promote higher standards of living, solutions to international economic, social, health, and related problems, and universal respect for human rights and fundamental freedoms.[78]

These overarching goals of the UN are for instance presented in the ICESCR. As mentioned above, some consider the rights in the ICESCR as being less important than the rights put forward in the ICCPR. To some extent, it is possible to adopt a more idealistic view in regards to the realisation of the rights under the ICESCR, as they are considered more difficult to execute, in particular for developing states.[79] These economic, social and cultural rights would be described as positive rights, i.e. meaning

[74] Donnelly, *supra* note 67 at 28-30. Donnelly describes inter alia three different models of human rights perspectives; a traditional statist model, a cosmopolitan model and an internationalist model all resulting in different views on human rights obligations and activities. The traditional statist model would consider human rights a matter of sovereign national jurisdiction. A cosmopolitan model would look at the individual rather than the state and promote state interventions on the grounds of gross violations of human rights. Between the two models is the internationalist model, which accept human rights activities in conformity with the norms of the society of states, and activities can thus be limited in reference to such norms.
[75] *Ibid.*
[76] *Ibid*. p.32-33
[77] Smith, *supra* note 56 at p. 43; Shaw, *supra* note 59 at p. 262
[78] United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Art. 55
[79] Smith, *supra* note 56 at p.42

that it requires more activity from the state part to realise the rights. On the other side are those rights considered negative, i.e. civil and political rights, which refers to the state refraining from interfering or disturbing individuals enjoying their rights. This could indicate that the civil and political rights are cheaper to realise, in relation to economic, social and cultural rights requiring larger economic resources.[80]

The ICESCR is primarily focused on securing the basic needs for everyone, as each individual are dependent on food, water, and health care in order to survive.[81] For instance, adequate food is a basic prerequisite for each individual to be able to enjoy the human rights.[82] The first article in the Covenant establishes the right of self-determination of peoples, the same as in the correlating article of the ICCPR[83]. This article also includes the right of the people to freely determine their political status and pursue their economic, social and cultural development, as well as the demands on state parties to promote the realisation of and respect for the right to self-determination. In the following five articles, the obligations of the states are established.[84] The third part of the Covenant, enrols the concrete and typical economic, social and cultural rights, such as the right to work, right to an adequate standard of living, adequate food, clothing and housing, the improvement of living conditions, the right to adequate physical and mental health, education, and to participate in cultural life.[85]

There are no explicit rights in the ICESCR aiming at minorities or indigenous people, but there is a possibility to draw on the concept of equality in the realisation of the rights, and the obligation to provide conditions for the maintenance of the cultural identity. In some cases, this would include providing the possibility of an indigenous group to control their own land and other resources, as well as ensuring the standard of living that correspond with their tradition.[86]

The Committee on Economic, Social and Cultural Rights (CESCR) was established in 1985, under the UN Economic and Social Council. The main focus of the Committee is to monitor the implementation of the Covenant of

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[80] Björk, T.,(2005), 'Ekonomiska, sociala och kulturella rättigheter', in *Allas Värde och Lika Rätt, Perspektiv på Mänskliga Rättigheter*, Gunner, Göran and Elena Namli (eds.), Studentlitteratur, Lund, p. 37-38

[81] *Ibid*. p 35

[82] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (1999), *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, 12 May, E/C.12/1999/5, para 1. [GC 12]

[83] United Nations, General Assembly, (1966), *International Covenant on Economic, Social and Cultural Rights*, 16 December, United Nations, Treaty Series, vol. 993, p. 3, [ICCPR] art. 1; United Nations, General Assembly, (1966) *International Covenant on Civil and Political Rights*, 16 December, United Nations, Treaty Series, vol. 999, p. 171, [ICESCR] art.1

[84] ICESCR, *supra* note 83 at art. 2-5

[85] *Ibid*. art. 6-15

[86] Eide, A., (2001), 'Economic, Social and Cultural Rights as Human Rights' in Eide A., Krause C. and A. Rosas (eds.), *Economic, Social and Cultural Rights: A Textbook*., 2nd rev. ed., Martinus Nijhoff Publishers, Dordrecht, p. 20

the member states.[87] Until recently, there was no particular procedure for those affected by violations of the ICESCR to put forward complaints; however, in 2008 the General Assembly (GA) adopted an Optional Protocol to the Covenant for that purpose, which entered into force in 2013.[88]

3.2.1 State obligations of fulfilment

The UN Charter provides no specific details on the design of the state responsibility in regards to the promotion of human rights. Even though there exist a number of legal instruments, dealing with the realisation of rights and the state obligations, the possibility of any individual or group to enjoy their human rights is left to the discretion of the states.[89]

The state obligations as put forward in the ICESCR, include "to take steps … to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures"[90]. The nature of the general obligations of the states is explained by the CESCR in its General Comment No 3. The obligations include the responsibility of the state to implement and to achieve results.[91] The Covenant acknowledges the potential limit of resources and thus provides for the possibility of progressive realisation. Although, any steps taken by the state in order to realise any rights must be "deliberate, concrete and targeted"[92] in regards to the obligations in the Covenant. Adoption of legislative measures is only one example, which can be necessary in some cases. The content of 'appropriate measures' is for the state to decide, but the state should be clear of the reasons why any measures are considered the most appropriate. Appropriate measures should at least be democratic and in respect of human rights.[93] The notion of 'progressive realisation' shows a realistic approach towards problematic situations in some states in times of resource constraints, and the difficulties it may entail in terms of fully realising the rights under the ICESCR. Even so, the states should be efficient and effective in their activities and the states must at least provide a basic minimum level for each right, for instance primary health care and basic housing.[94]

In the General Comment no 12, regarding the right to food, the Committee adds that the state obligations consist of three types of levels, the obligation

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[87] Smith, *Supra* note 56 at p. 66
[88] United Nations, General Assembly (2008), *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, 10 December, resolution adopted by the General Assembly on 5 March 2009, A/RES/63/117
[89] Smith, *Supra* note 56 at p. 27
[90] ICESCR, *supra* note 83 at art. 2(1)
[91] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (1991), *General Comment No. 3: The nature of States parties' obligations (Art. 2, para. 1, of the Covenant*, 1 January, E/1991/23
[92] *Ibid*. para. 2
[93] *Ibid*. para 4, 8
[94] *Ibid*. para 9

to *respect*, to *protect* and to *fulfil*. The obligation to 'respect' would implicate that the state should refrain from blocking any existing food access. To 'protect' would amount to making sure that no investors, companies or individuals deprive others of their access to food. To 'fulfil', contains both to facilitate and to provide, and cover state measures that proactively strengthen the access to and the utilisation of resources, including means to ensure the livelihood of individuals, such as food security. In the case of individuals falling short on food supply, the state has an obligation to provide food. In addition to this, it is stated that a lack of food supply, or the inability to enjoy the right to food, should depend on reasons outside of the control of the individual.[95] In regards to the right to food, article 11 (2) of the ICESCR, emphasises the obligation of the state to recognise "the right of everyone to be free from hunger"[96]. This suggests that the state must provide for a minimum standard level of the requirements in regards to the right to food.[97] Furthermore, the states shall use necessary means "including specific programmes … to improve methods of production, conservation and distribution of food … by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources".[98] The national strategies for implementing the obligations on the right to food, should also comply with the principles of accountability, transparency, people's participation, decentralisation, legislative capacity and the independence of the judiciary.[99] Finally, states should refrain from using food as an instrument of political and economic pressure.[100]

In regards to the right to adequate housing, this right does not aim at only a roof over the head, but a lot more. This right includes the right to live in security, peace and dignity, as well as the right to adequate privacy, space, security, electricity, basic infrastructure, and location in terms of basic facilities and the possibility to work. Everything, to a reasonable cost.[101] In addition to this declaration, the Committee has published a comment particularly addressing so-called forced evictions.[102] The Committee admits that the term 'forced evictions', is not adequate, and thus define the concept as "a permanent or temporary removal against their will of individuals, families and/or communities, from the homes and/or the land which they occupy, without the provision of, and access to, appropriate forms of legal

[95] GC 12, *supra* note 82 at para 15; United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (2000), *General Comment No.14: The right to the highest attainable standard of health (Art. 12 of the Covenant)*, 11 August, E/C.12/2000/4, para. 33
[96] ICESCR, *supra* note 83 at art. 11 (2)
[97] Björk, *supra* note 80 at p. 44
[98] ICESCR, *supra* note 96
[99] GC 12, *supra* note 82 at para 23
[100] *Ibid*. para. 37
[101] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (1992), *General Comment No.4: The right to adequate housing (Art. 11 (1) of the Covenant)*, 1 January, E/1992/23, para 7
[102] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (1997), *General comment No. 7: The right to adequate housing (Art. 11 (1) of the Covenant): Forced evictions*, 29 May, E/1998/22, annex IV

or other protection"[103]. According to the Committee, such practices is not in conformity with the Covenant. Nevertheless, the Committee acknowledge that the practice is common, not only in developing countries, often occurring in the 'name of development'. Forced evictions can thus be executed in cases of conflict over land rights, in development and infrastructure projects, for instance due to large-scale commercial projects, for agricultural purposes, and so on. The Committee does recognise that the practice could be exercised, but only to the extent that any limitations, to the rights in the Covenant, are compatible with those rights, and in cases only where the purpose of the practice is for the general welfare in a democratic society. Prior to any eviction, the state shall ensure that all feasible alternatives are explored. In the situation of an eviction, it should comply with human rights law, and follow the principles of reasonability and proportionality. Evictions should not result in anyone becoming homeless and the state shall make sure that those affected by the eviction are properly taken care of, as well as adequately compensated.[104]

In the realisation of the highest attainable physical and mental health, the Committee states that this right does not *only* include appropriate health care. In order to obtain a good health, basic conditions need to be realised as well, such as clean water, sanitation, suitable supply of safe food, nutrition and housing, healthy occupations, safe environment, access to health-related education, and so on.[105] The Committee emphasise that in regards to all human rights under the ICESCR, the three levels of obligations apply; the obligations to respect, protect and fulfil.[106] In regards to indigenous people, the Committee specifically address the issue of the health of individuals in such groups, in the assumption that the overall health of these individuals is related to the society and integrity of the group, and that medicinal plants or minerals, necessary for the enjoyment of their health, should be protected. The Committee also indicates that development-related activities, that would involve involuntary displacement of indigenous people from their traditional territories, denying them their sources of nutrition, and breaking their relationship with their land, can have harmful effects on their health.[107]

3.3 The right of self-determination and indigenous people

Self-determination

The concept of self-determination of peoples was initially expressed as a legal principle in the article 1 (2) of the UN Charter, in the clarification of one of the purposes of the UN; "to develop friendly relations among nations

[103] GC 7, *supra* note 102 at para 3
[104] *Ibid*. para 1, 3, 5-7, 13-14, 16
[105] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (2000), *General Comment No.14: The right to the highest attainable standard of health (Art. 12 of the Covenant)*, 11 August, E/C.12/2000/4, para 11
[106] *Ibid*. para 33
[107] *Ibid*. para 27

based on respect for the principle of equal rights and self-determination of peoples"[108]. Article 55 of the Charter, reflects the right of self-determination in the same manner. Chapter XI of the Charter points implicitly to the right of self-determination, even if the main focus is on the decolonisation process.[109] Prior to the inclusion in the UN Charter, the principle of self-determination was more or less considered as a political concept.[110]

Apart from the recognition in the UN Charter, the right of self-determination is also established in the first article of the two Covenants, "All peoples have the right of self-determination"[111]. The right is an explicit collective right and cannot be exercised by individuals, but the group.[112] The right of self-determination was not included in the UDHR, which may not be considered a surprise as many of those involved in the drafting process, represented former colonial powers and thus was not keen on such a recognition.[113]

The concept of self-determination is used differently in international law and human rights. In its basic form it relates to the right of independence, as self-determination is a prerequisite in relation to statehood, including state autonomy and sovereignty.[114]

It is rather uncontroversial that the right of self-determination is applicable to people within the context of the decolonisation process.[115] This perception is established in the Declaration on the Granting of Independence to Colonial Countries and People, adopted in 1960.[116] However, the application of the right for peoples, outside the realm of decolonisation, is unclear and controversial.[117]

It has been argued that the two articles in the Covenants are aiming at different types of self-determination, such as a political self-determination in the ICCPR and an economic, or cultural, autonomy in the ICESCR.[118]

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[108] UN Charter, *supra* note 78 at art. 1 (2)
[109] Rehman, J. (2003), 'The Rights of 'Peoples' and 'Indigenous Peoples'', in *International Human Rights Law. A Practical Approach*, Longman, London, p. 328
[110] Shaw, *Supra* note 59 at p. 226, 231
[111] ICESCR, *supra* note 83
[112] OP, *supra* note 88; It should be noted that according to the Optional Protocol to the ICESCR, individuals as well as a group of individuals, can communicate to the CESCR. This is a difference in regards to the Optional Protocol to the ICCPR, only recognising individuals as subjects. See further United Nations, General Assembly, (1966), *Optional Protocol to the International Covenant on Civil and Political Rights*, 19 December, United Nations, Treaty Series, vol. 999, p.171
[113] Robbins, B., and E. Stamatopoulou, (2004), 'Reflections on Culture and Cultural Rights', *South Atlantic Quarterly,* 103, vol. 2, p. 423
[114] Shaw, *supra* note 59 at p. 185, 231
[115] *Ibid*. p. 231; McCorquodale, R., (1994), 'Self-determination: A Human Rights Approach', *International and Comparative Law Quarterly*, Vol 43, No. 4, p. 859
[116] Shaw, *Supra* note 59 at p. 227; United Nations, General Assembly, (1960), *Declaration on the Granting of Independence to Colonial Countries and Peoples*, Resolution 1514 (XV), 14 December, para 2
[117] Smith, *supra* note 56 at p. 3; McCorquodale, *supra* note 115 at p. 860-862
[118] Smith, *supra* note 56 at p. 261

Economic or cultural autonomy would be an example of the so-called internal self-determination, i.e. the right to pursue economic, social and cultural development within the state territory, including the freedom from state interference.[119] Simply put, it relates to situations involving the internal affairs of the state, and the extent of the application would ultimately depend on the constitution of the state.[120] The application of the right of self-determination within the context of decolonisation would be considered as an example of the external version of the concept, i.e. the involvement of international relations, and territorial concerns, of the state.[121] Adding to this, Shaw points out that even if the principle of self-determination is a collective right including the possibility of secession, the fulfilment of the right does not always have to include that result, however it is a relevant factor to reflect upon.[122]

Peoples

Unfortunately, there is no clear definition of what constitutes a 'people' in the concept of self-determination of peoples, and the content and scope of the right to self-determination of peoples, has been widely debated, particularly as the world has moved beyond the classic decolonisation period.[123] The question thus remains to whether the right of self-determination of peoples, is applicable to all groups existing within the territorial framework of independent states.[124] In view of state practice and the on-going discourse on the subject, Rehman regards it safe to say that the right of self-determination is applicable in post-colonial times.[125] Robbins and Stamatopoulou states that there is no strict legal reason to why the right to self-determination could not be applicable to groups existing within the territorial borders of independent states.[126] However, they further argue that, as there is no specification in international law regarding the size and nature the group assigned the right to self-determination, this would imply that if applicable to all groups residing in a state, also claiming the right, it could jeopardise the existence and sovereignty of that state. A solution to such a problem would be to agree on an official definition of 'people'.[127] In regards to state obligations in promoting and protecting the right of self-determination, the Human Rights Committee (CCPR) has confirmed the right of self-determination, though without a particular definition of 'people', as "an essential condition for the effective guarantee and observance of individual human rights"[128]. This statement could be viewed as a support of the application of the right outside the decolonisation context.

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[119] *Ibid*. p.262
[120] McCorquodale, *supra* note 115 at p. 864
[121] *Ibid*. p.863
[122] Shaw, *supra* note 59 at p. 231, 271,
[123] Rehman, *supra* note 109 at p. 325; Smith, *supra* note 56 at p. 255, 257-258
[124] Shaw, *supra* note 122
[125] Rehman, *supra* note 109 at p. 328
[126] Robbins, *supra* note 113 at p. 424
[127] *Ibid*. p 424-425
[128] United Nations, Human Rights Committee, (CCPR), (1984), *General Comment No. 12: The right to self-determination of peoples (Art.1 of the Covenant)*, 12 April, para 1

Indigenous people and their claims

In the discussions on self-determination of people, the entity of indigenous people will inevitably arise. In the same sense as it is difficult and controversial to define the entity 'people' in the concept of self-determination, the similar discussions appear when defining 'indigenous people'.[129]

The current standing on the rights of indigenous peoples started with the work of the ILO.[130] In the direction of a definition, the ILO Convention No. 169, states that the Convention applies to, simply put, tribal peoples and people regarded as indigenous.[131] According to the prerequisites in the Convention, tribal peoples would constitute a group with social, cultural and economic conditions distinct from others in the society, living their lives in accordance with, fully or partially, their own customs and traditions.[132] In regards to indigenous people, a group would be defined as indigenous, based on their origin of the populations inhabiting in a country, or a larger geographical region, at the time of colonisation or the establishment of the new state borders. It is also implied that the indigenous groups would have some sort of social, economic, cultural and political institutions.[133]

There does not exist a fully accepted and recognised definition of indigenous people.[134] In the UN Fact Sheet No. 9 (Rev 2) on Indigenous People, the UN confirms that no official definition exists in international law.[135] However, in the previous edition of the Fact Sheet No. 9, it was included a short text declaring the reasons for a group being described as indigenous, "Indigenous … peoples are so-called because they were living on their lands before settlers came from elsewhere; they are the descendants … of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlements or other means."[136]

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[129] Rehman, s*upra* note 109 at p.326

[130] Swepston, L., (2011), 'Indigenous Peoples on the International Scene: A Personal Reminiscence', in *Making Peoples Heard: Essays on Human Rights in Honour of Gudmundur Alfredsson*, Eide, A, Möller, J. Th., and I. Ziemele (eds.), Martinus Nijhoff Publishers, LeidenSwepston, p.429; The first Convention on the matters was The Indigenous and Tribal Populations Convention, 1957. See particularly art. 1(1). (International Labour Organization (ILO), (1957), *Indigenous and Tribal Populations Convention, C107*, 26 June, C107)

[131] International Labour Organization (ILO), (1989), *Indigenous and Tribal Peoples Convention, C169*, 27 June, C169ILO Convention, (No. 169), art. 1 (1)

[132] *Ibid*. art. 1(a)

[133] *Ibid*. art. 1(b)

[134] Rehman, *supra* note 109 at p.332

[135] United Nations, Office of the High Commissioner for Human Rights (OHCHR), (2013), *Fact Sheet No. 9, Rev. 2, Indigenous Peoples and the United Nations Human Rights System*, August, No. 9, Rev 2. Available at http://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf p. 2

[136] United Nations, Office of the High Commissioner for Human Rights (OHCHR), (1997) *Fact Sheet No. 9 (Rev.1), The Rights of Indigenous Peoples*, July, No. 9 (Rev.1), p.1. Available at http://www.ohchr.org/Documents/Publications/FactSheet9rev.1en.pdf

The most widely published attempt for a definition is the one produced by the UN Special Rapporteur José R. Martínez Cobo in the 1980s.[137] In accordance with Cobo's definition, indigenous people have "a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the society now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories and their ethnic identity, as the basis of their continued existence as peoples, in accordance with cultural patterns, social institutions and legal systems."[138]

In terms of defining if, a person belongs to an indigenous group or not, the contemporary international practice, in accordance with the ILO Convention[139], also applies to the self-identification policy. This concerns the particular wish of the individual, whether to be part of the group or not, acknowledging the fact that not all indigenous people want to state their belonging to a particular group, due to for instance assimilation concerns.[140]

In short, Rehman sums up the requisites of the definition as to include self-identification, non-dominance, historical continuity with pre-colonial societies, ancestral territories and an ethnic identity.[141]

Adding this to the concept of self-determination of peoples, as mentioned above, the group that would hold the right of self-determination, in view of indigenous peoples, would be subjected to a combined assessment.[142] Some of the conditions in such an assessment were decided upon by experts in UNESCO, and include that the group should have "a common historical tradition; racial or ethnic identity; cultural homogeneity; linguistic unity; religious or ideological affinity; territorial connection; common economic life"[143]. The group should also be of a certain number, not large but more than an association of individuals. To this should also be added the self-identification factor, together with the existence of institutions or means of expressing the characteristics and wish for identity.[144]

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[137] Rehman, *supra* note 109 at p.332
[138] Cobo, J. R. Martinez, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, *'Study of the Problem of Discrimination Against Indigenous Populations'*, UN Doc. E/CN.4/Sub.2/1986/7/Add 4, 1986, 29, sections 370-380
[139] ILO, *supra* note 131 at art. 1(2)
[140] Smith, *supra* note 56 at p. 318
[141] Rehman, *supra* note 109 at p.333
[142] McCorquodale, *supra* note 115 at p. 866
[143] United Nations, Educational, Scientific and Cultural Organization, (1989), *International Meeting of Experts on further study of the concept of the rights of peoples*, UNESCO, Paris, 27-30 November 1989, Final report and recommendations, p.7-8, para 22 (1)
[144] *Ibid*. p.8 para 22 (2) and (3)

There are some suggestions that indigenous peoples should be considered as minority groups.[145] Many indigenous peoples hold the position of a minority, being weak and inarticulate, and thus many claims of the groups coincide.[146] Even though similar characteristics and shared concerns appear within both entities, there is a prominent view that indigenous peoples belong to a category, distinct from other minorities or ethnic groups. This view is also shared among the indigenous peoples themselves, mainly due to their claims being more extensive than minority claims.[147]
The individual rights given in article 27 of the ICCPR is applicable to individuals belonging to both minorities and indigenous groups. Accordingly, the state must act appropriately to protect the identity of the individuals belonging to such groups, as well as secure their right to enjoy and develop their culture, practice their religion, and use their language.[148] In regards to promoting development, Geoffrey Robertson adds that much can be done in regards to the peoples' right of development, but that the opposite aspect must be address as well, namely the right to not develop. Thus, implies that the concept of development is dynamic and can be perceived differently.[149]

Even if some indigenous peoples can be viewed as minorities, the reverse scenario is not appropriate, in that not all minorities are defined as indigenous groups.[150] As mentioned, in the review of possible claims, many of the claims made by indigenous people coincide with those of other minorities, for instance the desire of recognition and autonomy. However, one difference would concern claims over land and natural resources together with the environment, as part of the historical continuity for indigenous peoples. Another difference would relate to the specific nature of the relationship between individuals and the group, and the possibility for the indigenous group to impose obligations on individuals.[151]

In the development of indigenous rights, the call for self-determination has been important, including the control over land and natural resources.[152] Self-determination would, in relation to the fulfilment of the rights under the ICESCR, include a right to be free from the deprivation of the own means of subsistence. This is an economic aspect, but it emphasises the tie to the

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[145] Robertson, G., (2006), *Crimes Against Humanity. The struggle for global justice*, 3rd ed., Penguin Books, London, p.162; Smith *supra* note 56 at p. 317
[146] Rehman, *supra* note 109 at p. 331
[147] *Ibid*. p.332
[148] United Nations, Human Rights Committee (CCPR), (1994), *General Comment No. 23: The rights of minorities (Art. 27 of the Covenant),* 26 April, para 2, 5.1-5.2, 6.2; See also Smith, *supra* note 56 at p.255
[149] Robertson, *supra* note 145 at p. 162
[150] Rehman, *supra* note 109 at p. 334.
[151] *Ibid*. p. 334
[152] Eide, A., (2011), 'Prevention of Discrimination, Protection of Minorities, and the Rights of Indigenous Peoples: Challenges and Choices', in *Making Peoples Heard: Essays on Human Rights in Honour of Gudmundur Alfredsson*, Eide, A, Möller, J. Th., and I. Ziemele (eds.), Martinus Nijhoff Publishers, Leiden. Eide, p. 406; See also Robertson, *supra* note 145 at p. 163

specific land for indigenous people.[153] The claim of land rights is of particular interest for indigenous people, as the traditional land is an integral part of the identity, culture and religion, and thus essential to the existence and survival of the group.[154]Claims of land rights, raise political concerns as well, particularly if the land involves natural resources valuable to the state.[155] Many challenges arise for indigenous people, through the exploitation of land and natural resources.[156] Although, there is a sense of understanding among many indigenous people, that other concerns may have to be addressed, such as providing for the welfare of the members of the group, but also regarding the rights of other ethnic groups residing in the same area.[157]

Rehman argues that indigenous peoples are insisting on being included in the definition of 'people' in the concept of self-determination, as a possible demand for self-determination could lead to independent statehood.[158] However, if self-determination, including secession, were not considered an option, a cultural, social and economic self-determination, would be considered successful for many indigenous groups. Such internal self-determination would also be less controversial, if it implies little threat to the state.[159] Asbjørn Eide argues that secession for indigenous people claiming the right of self-determination is not what the groups are aiming for in reality, even if they persist on using the concept of self-determination.[160] Eide argues that a modification of the self-determination concept has emerged within the UN system, as a correlation between the right of self-determination and the rights of minorities, article 1 respectively article 27 of the ICCPR. In this view the right of self-determination, in accordance with minority rights, could be moving away from issues of secession, and instead point to requirements of a certain level of autonomy for groups existing within a state.[161] This modification of application, is suggested as the basis for the interpretation of the concept of self-determination in the Declaration on the Rights of Indigenous People (UNDRIP), as not including any rights of secession for indigenous people.[162] Rhona Smith adds to this by stating that perhaps such move to internal autonomy is a fair compromised solution, given the problems related to self-determination claims. Such autonomy, would still give the indigenous people, the opportunity to live their lives in accordance with their culture and tradition.[163] Much in line with other minority groups.

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[153] Smith, *supra* note 56 at p. 262
[154] *Ibid*. p. 320
[155] *Supra* note 153
[156] *Supra* note 154
[157] Eide, *supra* note 152 at p. 406
[158] Rehman, *supra* 109 at p.326
[159] Smith, *supra* note 56 at p.263
[160] Eide, *supra* note 152 at p. 396
[161] *Ibid*.
[162] *Ibid*.
[163] Smith, *supra* note 56 at p.319, 321

UNDRIP

One of the first documents processed in the Human Rights Council, established in 2006 superseding the Commission on Human Rights, was the Declaration on Rights of Indigenous People (UNDRIP), sanctioned by the General Assembly in 2007. According to Lee Swepston, the Declaration is a great step in the recognition of the rights of indigenous people, even if the non-binding nature of the document will bring lengthy debates on the status.[164] In line with this, Surendra Bhandari, claims that the Declaration is more of a concept than law, as it cannot impose any duties, albeit it can promote future discussions, which may lead to a legal framework.[165]

The UNDRIP does not include a definition of indigenous peoples, implying that the unofficial but common principles prevail. The UNDRIP confirms that the right of self-determination is a group right applicable to indigenous people, and recognises the internal application of the right of self-determination.[166] In line with this internal application, the right of self-determination suggests some level of autonomy, as stated in article 4. Article 10 emphasises in particular, that indigenous people should not be forcibly removed from their land, and that no relocation should take place without a free, prior and informed consent including just and fair compensation. Adding to that there should also be an option of return. The Declaration emphasises many particular rights, aiming at including the various claims put forward by indigenous people, for instance the connection to land and territory.[167] Although, as mentioned above, the Declaration is not legally binding.

3.4 The situation of Ethiopia

3.4.1 Regional application – the African Charter

Apart from the basic global human rights treaties and bodies under the UN, there also exists separate regional systems aiming at protecting and promoting human rights in the specific area.[168]

In 1963, the Organisation of African Unity (OAU) was founded, aiming at inter alia promoting relations between the states emerging out of decolonisation, as well as providing a forum for African policies to be discussed.[169] In 1981, the OAU adopted the basic human rights document

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[164] Swepston, *supra* note 130 at p. 437

[165] Bhandari, S., (2014), 'From External to the Internal Application of the Right to Self-determination: The Case of Nepal', *International Journal on minority and group rights*, Vol 21, Issue 3, p. 337

[166] *Ibid*.

[167] United Nations, General Assembly, (2007), *United Nations Declaration on the Rights of Indigenous Peoples*: resolution adopted by the General Assembly, 2 October, A/RES/61/295, art. 25-27

[168] Smith, *supra* note 56 at p. 82-83

[169] Smith, *supra* note 56 at p. 125; Organization of African Unity (OAU), (1963), *Charter of the Organization of African Unity*, 25 May

relevant for the region, the African Charter of Human and People's Rights (ACHPR)[170], with the approach of respecting the specific situation of the African countries, as well as recognising the particular values in the region.[171] In 2000, the OAU was transmitted into the African Union (AU).[172]

The African Charter, which entered into force in 1986, recognises many of the basic international human rights, such as non-discrimination, equality and respect for human dignity, liberty and security.[173] In addition, civil and political rights, such as the right of freedom of conscience, religion, expression, association and movement, are also recognised.[174] Some of the political rights are 'free', whereas others approve limitations in accordance within the laws of the states. For example, "every individual shall have the right to express and disseminate his opinions within the law"[175]. These rather unclear restrictions affect the strength of the Charter, and the formulations are considered inadequate in regards to international standard.[176] Muna Ndulo suggests that these issues are addressed in the case of a revision of the treaty.[177] In regards to economic and social rights, the Charter recognises inter alia the right to work, education, to take part in cultural life, as well as the right to a mental and physical health.[178] The Charter makes no specific recognition of ethnic groups, minorities or indigenous people. The only mentioning of peoples is without definition in the articles 19-24, stating inter alia, that all peoples are equal and have the right to exist[179] as well as the "unquestionable and inalienable right to self-determination"[180]. Furthermore, all peoples should have right to freely dispose of their wealth and natural resources[181], and the right to their economic, social and cultural development "with due regard to their freedom and identity"[182]. The Charter is rather different from other international human rights instruments in that it also imposes duties on the individuals, such as the duty to promote African values and the moral well-

[170] Also known as the Banjul Charter. Organization of African Unity (OAU), (1982), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58. Available at http://www.achpr.org/instruments/achpr/
[171] Smith, *supra* note 56 at p. 126
[172] Organization of African Unity (OAU), (2000), *Constitutive Act of the African Union*, 1 July. Available at http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf
[173] African Charter, *supra* note 170 at art. 2, 3, 5-6
[174] *Ibid*. art. 8-10, 12
[175] *Ibid*. art. 9
[176] Ndulo, M., (2009), 'The Commission and the Court under the African Human Rights System', in *International Human Rights Monitoring Mechanisms*: *Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., Alfredsson, G, Grimheden, J, Ramcharan, B.G., and A.de Zayas (eds.), Martinus Nijhoff Publishers, Leiden, p.635-636
[177] *Ibid*.
[178] African Charter, *supra* note 170 at art. 15-17
[179] *Ibid*. art. 19 and 20
[180] *Ibid*. art. 20
[181] *Ibid*. art. 21
[182] *Ibid*. art. 22

being of the society.[183] This could perhaps provide a reason for the rather controversial existence of moral laws in African countries.[184]

3.4.2 Related implementation difficulties

It is possible that the African continent holds one of the greater concentration of indigenous people, consequently several multicultural societies. Such a focus on peoples and societies in the African context, would suggest a more accepted posture towards indigenous people and ethnic minorities.[185] However, as Michelo Hansunguel points out that there are no specific human rights document aiming at only the rights of minorities or indigenous people relevant to the African region, which would serve as evidence of the negative attitude among African leaders, towards such groups.[186] Eide support this argument when stating that the concept of indigenous people is very controversial in the African continent.[187]

Hans Morten Haugen continues on the subject by stating that in ideal situations, the state should protect and promote human rights including the facilitation of participation of any group or community. However, many states consider indigenous people as unmodern or uncivilised, hence the negative attitude, and in the choice between development and modernisation on the one hand, and the rights of indigenous people on the other, states tend to be more interested in national investment proposals from foreign companies'.[188]

It is common knowledge that indigenous peoples exist in Africa and Asia, although the approach towards their rights may be different in regards to other parts of the world.[189] According to Hansunguel, minorities and indigenous people are forgotten subjects in Africa and mainly considered as threat to the territorial integrity of the state, implying that some groups are troublemakers and may create conflicts. This approach would thrive on the history of previous ethnic conflicts and claims from such groups would impose possible threats to the established order, regardless of the fact that many politicians belong to minorities themselves. These kind of prejudices promote the negative attitudes towards minorities and ethnic groups in many

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[183] Ndulo, *supra* note 176 at p. 636; Smith, *supra* note 56 at p. 126; See also African Charter *supra* note 170 at art. 29

[184] Izama, M. P., (2014), 'The rise of morality politics in Africa: Talk is cheap and dangerous, but wins votes', *The Washington Post*, 24 February, Available at http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/02/24/the-rise-of-morality-politics-in-africa-talk-is-cheap-and-dangerous-but-wins-votes/ [22 June 2015]

[185] Smith, *supra* note 56 at p. 323

[186] Hansungule, M., (2011), 'Minority Protection in the African System of Human Rights', in Making Peoples Heard: Essays on Human Rights in Honour of Gudmundur Alfredsson, Eide, A, Möller, J. Th., and I. Ziemele (eds.), Martinus Nijhoff Publishers, Leiden, p. 422

[187] Eide, *supra* note 152 at p. 402-403

[188] Haugen, H. M., (2014), 'Peoples' right to self-determination and self-governance over natural resources: Possible and desirable?', Institute for Diaconia and Leadership, Diakonhjemmet University College, *Nordic Journal of Applied Ethics*, Vol 8, No 1, p. 19

[189] Eide, *supra* note 187 at p. 402

African states.[190] Even if groups in Africa qualify for certain rights of development according to their culture, they would still have a duty to contribute to the overall development of the country, including securing human rights for everyone, such as freedom and equality. Consequently, the group would have the possibility to benefit from such a countrywide development as well.[191] In addition to this, Eide argues, exemplifying Nepal, that even if it could be possible to point out a specific territory belonging to an indigenous group, the group would have co-existed with many other groups, whose interests they would have to be considerate about and take into account.[192]

According to Erica-Irene A. Daes, land and resource conflict is a major issue, especially in cases involving displacement of indigenous people from their lands.[193] Particularly in Africa, there is evidence of such activities, where indigenous people have been forced to move or relocated in the name of development.[194] In regards to this, Daes presents several different economic and political challenges to indigenous people today. For instance, states fail to recognise the historical importance for indigenous peoples' possession and use of land, and thus deny any legal status with respect to territory.[195] Another category suggests that states may recognise the right of indigenous people to exist and occupy a certain part of the country, but not give credit to the fact that it may impose legal entitlements to the land.[196] The next category would imply that states continue to justify the seizure of land from indigenous people, by referring to economic growth and development projects, thus putting the survival of indigenous groups at risk, for the rights of the non-indigenous peoples.[197] Many indigenous people rely on the recapturing of their land and natural resources for the identity and survival of the group.[198] According to Daes, it is a necessity to adopt a flexible approach to land issues between indigenous peoples and states. Even if many countries have recognised indigenous people in their domestic legal documents, there still are countries struggling with or facing heavy conflicts over land rights and natural resources.[199]

Many states struggles with the difficulties in governing a multicultural society and dealing with cultural diversity adequately. This problem is significant in a global world where minority groups, or indigenous people,

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[190] Hansungule, *supra* note 186 at p. 411, 421
[191] Eide, *supra* note 189
[192] *Ibid*. p. 405
[193] Daes, E-I. A., (2011), 'Principal Problems Regarding Indigenous Land Rights and Recent Endeavours to Resolve Them', in *Making Peoples Heard: Essays on Human Rights in Honour of Gudmundur Alfredsson*, Eide, A, Möller, J. Th., and I. Ziemele (eds.), Martinus Nijhoff Publishers, Leiden, p.467
[194] *Ibid*. p. 483
[195] *Ibid*. p. 469. This category would be defined as "Failure to acknowledge Indigenous Occupancy".
[196] *Ibid*. This category would be defined as "Failure to attach full rights to indigenous Occupancy".
[197] *Ibid*. p. 472. This category would be defined as "Assertion of Higher National interest".
[198] *Ibid*. p. 473
[199] *Ibid*. p. 483

strive for public recognition. Particularly, in such cases where the majority perceive these groups as a threat to their own economic or cultural interests.[200]

3.4.3 Ethiopia and the Constitution

Ethiopia was one of the first countries to become a member of the League of Nations and the following UN. In the beginning, Ethiopia was rather enthusiastic in terms of diplomatic relations, and is part of the basic human rights treaties, unfortunately not all the Optional Protocols connected to the treaties.[201] Ethiopia became part of the two Covenants in 1993 and the African Charter in 1998.[202]

In 2012, the CESCR published their concluding observations regarding the implementations of the ICESCR, based on the country report submitted by Ethiopia in 2011. The Committee was pleased with the activities of poverty reduction in terms of policies, strategies and programmes.[203] However, the Committee was concerned about the various reports on the so-called Voluntary Resettlement Programme, involving force by the State when relocating large amounts of people to villages, as well as the lack of basic infrastructure such as health clinics, water supplies, schools, and so on in the relocated areas. The Committee urged the state to ensure that the relocation of people should be voluntary, following a consultation, providing adequate compensation for those affected, and guaranteeing basic services in the relocation sites, including adequate facilities such as drinking water, electricity, washing possibilities, sanitation, transportation, schools and health centres.[204]

The overarching basic legal document in Ethiopia is the Constitution of the Federal Democratic Republic of Ethiopia (the Constitution), which entered into force in August 1995.[205] In the preamble, already in the first sentence, the Constitution recognises that Ethiopia is a diverse and versatile country: "We, the Nations, Nationalities and Peoples of Ethiopia"[206]. The preamble also highlights that the multi-ethnic society of Ethiopia is a rich society, and

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[200] Dielissen, G-B., (2008), 'On the Sociological Instrumentality of Human Rights and Minority Rights', in *The Tension Between Group Rights and Human Rights, A Multidisciplinary Approach*, De Feyter, K. and G. Pavlakos, (eds.), Oxford and Portland, Oregon, p. 61

[201] United Nations, Office of the High Commissioner for Human Rights (OHCHR), *Ratification status of Ethiopia*, Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx [17 June 2015]

[202] African Commission on Human and Peoples' Rights, *Ratification table: African Charter on Human and Peoples' Rights*, Available at http://www.achpr.org/instruments/achpr/ratification/?s=state [26 June 2015]

[203] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (2012), *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights- Ethiopia,* 31 May, E/C.12/ETH/CO/1-3, para 4 (a)

[204] *Ibid*. para 21

[205] Ethiopian Constitution, *supra* note 27

[206] Ibid. the preamble p.75

that the people should be proud of the cultural legacies in the long-lived territory.[207]

Article 10 (2) of the Constitution, states that the fundamental rights and freedoms within the Constitution should be interpreted in conformity with the UDHR and the two international Covenants.[208] Article 39 of the Constitution recognises the rights of groups, in that "every Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the right to secession."[209] The definition of the significant compound is "a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory".[210] Following the unconditional right to self-determination, the groups have the right to develop and promote their language and culture, the right to preserve their history and the right to a full measure of self-government, including the establishment of governmental institutions in its territory.[211]

According to the last periodic report from Ethiopia to the CESCR, regarding the implementation of the ICESCR, Ethiopia is claimed to be one of few countries with such a strong right of self-determination, including the right to secession. There are examples of cases where the right to self-determination have been applied, in order to determine whether an ethnic group should be considered as distinct from other ethnic groups and then have a particular right to develop their own culture, language and history different from other groups, including the right to set up administrative bodies. In regards to the right to secession, however, the periodic report states that this right has never been applied in practice.[212]

In regards to economic, social and cultural rights, the state has an obligation to allocate resources to provide health, education and other social services to the public.[213] The Constitution also states that every person who have been displaced or whose livelihoods have been affected due to State programmes, has the right to compensation and relocation.[214] In addition to this, chapter 10 of the Constitution describes the national policy principles serving as guidance for governmental bodies in the implementation of any laws or policies. All governmental bodies should bear in mind the promotion, protection and development of the population's health, welfare, living

[207] Ibid.
[208] Ibid. p. 81
[209] Ibid. art. 39 (1)
[210] Ibid. art. 39, last paragraph
[211] Ibid. art. 39 (2) and (3)
[212] United Nations, Committee on Economic, Social and Cultural Rights (CESCR), (2012), *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights - Ethiopia*, 31 May, E/C.12/ETH/CO/1-3, para. 5, 7
[213] Ethiopian Constitution, *supra* note 5 at art. 41
[214] Ibid. art. 44 (2)

standard, education, clean water, housing, food, education, and cultural growth. However, there is an approved discrepancy in terms of lack of resources.[215]

Ethiopia is a federation, divided into nine separate states based on the major ethnic group residing in the region. The capital, Addis Ababa, and Dire Dawa are autonomous cities under the federation[216]. Each state has legislative, executive and judicial powers, applicable outside the scope of the powers of the federation.[217]

It is suggested by Malcolm Shaw that a federal state is a more flexible governmental structure, associated with a distribution of power, authority and competence to the different states. Although, it is crucial that the federal authority stays in control, otherwise there is a risk of any of the autonomous sates assuming control over the territory, and the population, and thus establish a sovereign state. This would then actuate the discussions of secession and the concept of self-determination in independent states.[218]

[215] Ibid. art. 85-92
[216] Rehman, *supra* note 141, United Nations, Human Rights Instrument, (2009), *Core document forming the initial part of the reports of states parties: Ethiopia*, 6 February, HRI/CORE/ETH/2008, para 14, p.12.
[217] Ethiopian Constitution, *supra* note 27 at art. 50-52
[218] Shaw, *supra* note 59 at p. 195-196

4 Analysis

This essay have in its objective to answer questions regarding the concept of villagisation in relation to the rights put forward in the ICESCR and in relation to the rights of self-determination. In the first part, the analysis includes the issue of whether villagisation could be a fair solution in developing states as a means of implementing the rights under the ICESCR and fulfilling the obligations of the state. In the second part, the analysis of villagisation is related to indigenous people and their possible right to refuse to take part in villagisation schemes on the grounds of self-determination.

4.1 Villagisation as a solution in regards to ICESCR?

According to the ICESCR, in the realisation of the rights in the Covenant, the state shall take steps to the maximum of its available resources, by all appropriate means, and progressively achieve results. These obligations are applicable to all state parties to the Covenant, regardless of the developing status of the country. There is not one single correct way to achieve results, i.e. each state will act differently to its own discretion. However, this does not mean that the state can act aimlessly and without consideration. Lack of resources is problematic and acknowledged, i.e. there is no expectation of an immediate result, and thus a gradual implementation and realisation is allowed, however in regards to economic and social services, it is important that the state provide a minimum standard of the most essential rights.

The state must make sure that adequate housing is provided, including all aspects in that regard, e.g. electricity, infrastructure, security and peace. Individuals should also be provided adequate health care including those facilities needed to keep healthy such as for instance clean water, sanitation and nutritious food. The CESCR has emphasised that any development-related activities involving involuntary displacement of indigenous people from their territory and breaking their relationship with their land can have harmful effects on the health. Implying that clearing land for development projects would be a violation to the right of the health of indigenous people.

The Committee has particularly addressed the issue of forced eviction, implicitly addressing certain villagisation schemes. However the attitude of the Committee towards the practice is vague, and there seems to be a slight contradiction in the statement. At first, the Committee acknowledges that the practice is used in the implementation of development programmes or to curb conflicts between ethnic groups, and that it is an involuntary practice with the use of force as a common element, in line with the concept. Consequently, the Committee condemns the practice. However, the Committee also accepts the practice, as long as it is executed in line with

certain criteria in regards to human rights, and solely in the case of the general welfare in a democratic society. According to the definition, the practice is still involuntary, thus implies the risk of the use of force, even if the practice should be executed in conformity with human rights, hence no use of force. It is thus unclear whether such practice should be avoided, or could be accepted in a country like Ethiopia. The Committee has indeed raised concerns of the villagisation programmes in Ethiopia, but the practice has not been ruled out as such. It would have been desirable if the Committee addressed the matters of relocation or resettlement from a larger perspective and in that discussion addressed issues of involuntary practices. However, it can be interpreted that the practice is acceptable, as long as it does not involve too much violence, and that anyone affected is properly consulted, cared for and compensated, suggesting a focus on resolving any practical issues of those possibly affected.

The most common official objective for villagisation programmes, throughout history has been to provide or improve the basic socio-economic standard of the people. The level of the objectives presented in the objectives, serves as evidence of a positive attitude towards the rights of individuals, and the responsibility of the state. The objectives as such are respectable and moving in the right direction, even indicating an improvement of an already provided standard, all in regards to the progressive realisation of the rights.

The state must respect, protect and fulfil the rights including to make sure that any access to or availability is not blocked or disturbed, and that no deprivation of access is present. The state must also take proactive steps to strengthen the access and utilisation of resources, including for instance means to ensure livelihoods for the population. This can include the implementation of specific campaigns or programmes aiming at improving cultivation methods, or developing the agrarian system to achieve efficient production and utilisation of resources. Villagisation includes the relocation of people from their homesteads, and their living circumstances, and in some cases, already accepted access to some basic facilities, depending on the preferences of the individual. In accordance with the obligations, the stat have a responsibility to respect and protect an already existing access to any rights, which should be taken into account in the implementation of the villagisation programme.

Any activities undertaken by the state must be deliberate, concrete and targeted, implying that the states must be considerate in their activities, whether it is implementing policies, programmes, or any other appropriate means. What constitutes an appropriate mean is left to the discretion of the state; nonetheless, the reasons for why an activity is considered the most appropriate should be clear. This implies that the state must make thorough investigations prior to any activities, in order to consider other options. It may be that other alternatives could lead to the same result, but with less resource. However, in the case of villagisation, accurate background research has not been presented neither in regards to alternatives nor to

previous experiences, which would be appropriate in order to achieve sustainable and long-term result. Factors such as climate could for instance be relevant in the relocation of peoples vulnerable to famine.

It can very well be questioned whether large villagisation schemes involving whole regions, respond well to the principles of proportionality and reasonability. For the plain provision of basic services, it may seem unreasonable to relocate a large amount of people in a short time period. In some perspectives, it could be considered more cost efficient to provide basic services for a larger group in one place at once, than gradually provide the same facilities to a smaller amount of people in the far ends of the country. However, there is a need for resources both in the actual execution of the relocation, and in the setting up of facilities. It would perhaps be preferable if the villagisation programme were implemented gradually, in a smaller scale with proper evaluations in between.

As has been highlighted, there is a need for a proper overall research from the government side, in order to consider all aspects. However, in the evaluation of villagisation as an appropriate state measure, it becomes clear that the fulfilment of the official aims is not the real purpose behind the programme, and that the official objectives may only be used to comply with a global opinion. The implementation of the villagisation programmes in Ethiopia, has more or less always shown to be inadequate with the failure of the government to provide what has been promised. Additionally, the execution of the programme has been everything but in conformity with human rights. In the recent villagisation programmes in Ethiopia, this has been particularly evident, in the forced relocations and the deprivation of living circumstances and livelihood, including the failure of the state to provide the economic and social services.

Ethiopia is a country with great national resources and agricultural potential and the region of Gambella is particularly suitable for agricultural activities. Furthermore, the government considers parts of the area unused or unutilised. In the latest villagisation programme, the unofficial reasons have been to implement large-scaled commercial projects, such as the construction of industries, or to clear land for the cause of leasing it to foreign investors. In some cases, these commercial agricultural projects can be implemented for development reasons, such as making land use more effective as a means for production of food, projects that could be beneficial for the whole population. This has also been confirmed as a necessary means in regards to state obligations. However, the expected level of development, in cases of leasing land to foreigners, and the impact such projects would have on the overall development of the country can be discussed.

Conclusion

It is rather obvious that villagisation in practice is a failing concept, despite the official aims being positive and respectable. This is of course due to various reasons. One reason for the failure, may be that a very basic element

is missing, resources. However, in theory and in an ideal world, all the official objectives could be met and implemented, and the programme executed in accordance with human rights. In such a case, villagisation could very well be an appropriate measure of the state in terms of realising the rights in ICESCR, and thus a possible solution. Even in reality, villagisation could be a solution, with or without unofficial objectives, as long as the programmes are executed in conformity with human rights. However, that approach would unfortunately not be realistic in regards to the evidence of any implementation. Evidence of villagisation as a success is rather absent, and thus villagisation seems to be a failing concept.

Villagisation in Ethiopia could thus be accepted if the state followed all the requirements according to human rights. However, Ethiopia being a developing country and one of the poorest in the world, with lack of resources as well as the proper preconditions for a positive and satisfactory implementation, it is not realistic at this stage to believe that villagisation can be a successful solution.

4.2 Villagisation, indigenous people and self-determination

The rights set forth in the ICESCR are applicable to all individuals, regardless of being part of an indigenous group or not. That means that the official aims of villagisation programmes, which are in conformity with the ICESCR, are also applicable to individuals belonging to an indigenous group. There are no rights in the ICESCR aiming particularly to indigenous people, except the right of self-determination of peoples. However, every individual has the right to take part in cultural life, which could be considered as a recognition of the rights of minorities and indigenous people. According to the ICCPR, states should take appropriate action to protect the identity of individuals who belong to indigenous groups, as well as secure their right to enjoy and develop their culture, practice their religion and use their language.

The African charter makes no distinction between people, such as minority groups or indigenous people, suggesting a rather complex attitude towards indigenous people. However, all peoples have an unquestionable right to self-determination. The Ethiopian Constitution makes no specific references to indigenous people either, but recognises that Ethiopia holds a large amount of different groups and people, being a multi-ethnic society rich on culture. All rights regarding the enjoyment of culture, language and religion, rights that might be connected to any ethnic or indigenous group, are for everyone.

The concept of indigenous people is very controversial in Africa, and indigenous people are considered as unmodern and uncivilised. In many cases, some ethnic groups, or indigenous people, are considered as threats to

the government and the internal stability of the country. The villagisation scheme in the Gambella region shows evidence on the attitude of the Ethiopian government, in regards to both the people residing in the area as well as their land being considered as unused or unutilised.

There are more than 80 recognised different ethnic groups in Ethiopia, however there exist no further categorisation officially of any of the groups being indigenous, as the ethnic recognition of people seems to be enough. Not all groups would be considered indigenous, but they exist. For instance, the Arsi people, subjected to villagisation in the 1980s, were considered as new to the land, implying that groups in other areas may be indigenous. In the more recent villagisation programme in Gambella, special focus has been on the Anuak people, as probably being indigenous, as well as the Nuer group even if their presence within the Ethiopian borders have not been that long. Even if the definition of indigenous people is rather clear, the circumstances regarding each ethnic group may not be as clear. This non-categorisation could be evidence of a negative attitude towards recognising in particular indigenous people, or it could be a matter of equality between the different ethnic groups in the state, and the aversion to single out some groups as being distinct, and either superior or subordinate. Thus implying that all groups have the same rights, not recognising any particular rights for any group.

In relation to the definition of people in the concept of self-determination - a common historical tradition, racial or ethnic identity, cultural homogeneity, linguistic unity, religious or ideological affinity, territorial connection, and common economic life - it is obvious, without any further categorisation that groups with the right of self-determination as recognised in international law, exist in Ethiopia.

In view of international human rights, it is rather certain that self-determination has moved beyond the times of de-colonialization, thus applicable to groups and peoples outside of the ‘traditional’ context.

The UNDRIP recognises the right of self-determination for indigenous people, aiming at an internal version of self-determination, implying that secession is not a suggestion, but instead a level of economic, social and cultural autonomy. The Declaration does not improve of the relocation of indigenous people from their land by force, and no relocation should be executed without free, prior and informed consent with just and fair compensation.

In the context of the African Charter, it is possible to conclude that the right of self-determination is aiming at an external version, as the rights of people are more relating to people affected by the colonialization.

The right to self-determination in the Ethiopian constitution is very strong. All groups, or ‘nations’, have the full right of independence and autonomy, including the right of secession. This implies that all groups in Ethiopia,

regardless of being indigenous or not, have the same right of self-determination. The presence of such a strong right of self-determination in Ethiopia, is a recognition of all ethnic groups to be independent and autonomous and to set up their own institutions. Ethiopia is an ethnic federation, and it is obvious that this strong right of self-determination is mainly focused on the ethnic groups controlling each of the national states, and possibly some of the ethnic groups residing in the areas. However, it is uncertain if this right would be applicable in practice, for each small ethnic group residing in the same area, claiming the right of self-determination. Included in the right of self-determination is the right to freedom from state interference, which could be said to apply in regards to the different national states in Ethiopia.

The right of self-determination in the Ethiopian Constitution does also recognise the right of secession. The Constitution is largely aiming at an external right of self-determination, for every group, as there is no other specific acknowledgement for any groups distinct from others. This highlights the issues presented by Robbins and Stamatopoulou. If all groups were to claim self-determination, it would jeopardise the state. As indicated in the state report of Ethiopia to the CESCR, new ethnic groups have been recognised, thus acknowledging their right to enjoy their culture; however, the right of secession has never been tried. That could be an indication of either that the right is not applicable in reality, or it is evidence of what Edie argues, that the wish of indigenous people is not to secede but to enjoy an internal right of self-determination. The question then is if such internal right is recognised in the Ethiopian Constitution. In theory, all groups in Ethiopia, including indigenous people, have the right of self-determination. However, it is difficult to be all clear to whether the right is really in conformity with the sort of right to internal self-determination that is suggested. The strong right to self-determination seems more like a theoretical concept than a practical one. In theory, indigenous people in Ethiopia would have the possibility to refuse to take part in villagisation projects claiming their right of self-determination, regardless of any objectives of the villagisation programme. However, in practice, the right of self-determination would only go as far as to the official aims of the villagisation programme, as to the refusal to take part in the improvement of the basic economic and social rights provided by the state. This would of course have to be put in relation to the rights of every individual, but as we have suggested above, adequately implemented, villagisation could be regarded as an appropriate measure, in order provide and improve economic and social services. As Eide states, many indigenous people do understand that there are other issues of concern, such as the welfare of the members of the group, that has to be addressed and thus it is possible that indigenous people residing in developing states would in fact accept a resettlement programme, due to other values of the group.

The strong right of self-determination in the Ethiopian Constitution suggests that indigenous people can refuse to take part in villagisation programmes no matter what the objectives are. However, as Eide also point out,

indigenous people may have to step aside for the collective good, due to implementation of various development projects. This would imply to let go of land and natural resources, for the utilisation of the state. This would be in line with the more realistic approach of indigenous people residing in Ethiopia. In the case of a group, living on the countryside with no interest of the public, it can be rather autonomous and self-governing. That would include the possibility to refuse to resettle, if the state provides facilities through villagisation. This would also aim at an internal right of self-determination.

The case would be different if the indigenous people had a strong territorial connection to a land rich on natural resources and suitable for large-scale utilisation, implying an area of political interest. In such a case, the common good would have to be taken into account and the right to self-determination would not be possible to execute. In addition to this, all people would have to contribute to the common good, and the overall development of the country. In such a case, it would be difficult for indigenous people to refuse a villagisation programme, however it may be a case of forced relocation. As there is no specific recognition of indigenous people in Ethiopia, their claims would not be as strong as to being able to refuse in relation to other ethnic groups.

Conclusion
In a case where villagisation is aiming at the official objectives, as an appropriate measure, in order to realise the rights set forth in the ICESCR, there is a theoretical right for indigenous people to refuse to resettle. They would have the right refuse to enjoy their rights, but the state would still have a responsibility for each individual. In a case like this, there must be a prioritisation between rights, and for poor countries, the case of ending poverty might be considered a stronger objective than recognising the rights of indigenous people.

In regards to the right of self-determination of people in Ethiopia and other objectives of villagisation, the theoretical right in Ethiopia would suggest that all ethnic groups have the right to claim self-determination, and thus refuse to resettle, even if the government have a political interest in the land. However in practice, the right of self-determination does not seem to be applicable in such cases, as the right to internal self-determination would not be as strong. The right of self-determination would then be left at a certain level of cultural autonomy. The claim of full right of self-determination, in terms of independence and self-government, would seem to be most applicable to indigenous people living in remote areas with no linkage to territories rich on natural resources and with no public interest.

4.3 Conclusion and final points

In this master thesis, two perspectives of villagisation have been in focus. In the first perspective, villagisation has been analysed based on official objectives of providing for or improving the socio-economic standard, in

relation to the rights set forth in the ICESCR and the obligations of the state to realise those rights. The second perspective has included an analysis of indigenous people, villagisation and self-determination, with focus on whether indigenous people could refuse to take part in villagisation programmes due to their right of self-determination.

In an ideal world, villagisation could very well be considered an appropriate measure for states in order to fulfil their obligations under the ICESCR in the realisation of the rights set forth in the Covenant. However, in practice a successful programme requires an adequate implementation in conformity with human rights. Many factors must be considered prior to an implementation of such a programme, in order to achieve a sustainable result.

In regards to both old and new evidence of villagisation, it certainly seems that villagisation is a failing concept, regardless of any objectives of the programme. Even if villagisation may be a solution in theory, in reality it is questionable whether villagisation could ever be successful. In view of reality, villagisation is probably a practice that should be abandoned at least for the reason of fulfilling the official aims of the programme. Nevertheless, it should be noted that villagisation could be successful, depending on the underlying objectives of the programme, however such objectives may not always coincide with human rights.

In the second perspective, the analysis was focused on the probability for indigenous people to refuse to take part in villagisation programmes claiming their right to self-determination. In Ethiopia, it would be possible to claim the right of self-determination and thus refuse to take part in villagisation projects, as long as the 'real' objectives are in line with the official ones. In regards to the rights of indigenous people in the international arena, it would be possible to some extent to refuse to take part in villagisation programmes if the objectives were others than the official ones. However, in regards to Ethiopia, where indigenous peoples are not specifically recognised as an entity and all ethnic groups are more or less treated the same, it would be difficult to claim the right of self-determination as a particular right for a distinct group. Consequently, it would be difficult to claim the right of self-determination as an indigenous group in order to refuse to take part in villagisation projects.

There is a point to be made in regards to this. Indigenous people would not have to go as far as to claim self-determination in order to refuse to resettle in villagisation programmes. As set forth in the ICESCR, individuals have the right to the highest attainable physical and mental health, furthermore, it is stated that any development-related activities involving involuntary displacement of indigenous people from their territory breaking their ties to their land, could have harmful effects on their health. The fact that Ethiopia has not categorised any ethnic groups as indigenous, makes it however difficult to invoke.

To conclude, villagisation is a complex concept involving various legal aspects. Villagisation *could* be a solution, in theory, but in reality the implementation and the outcome has proven otherwise. It seems rather impossible to launch successful programme, thus the practice should be abandoned. The case of indigenous people and self-determination would be similar in regards to theory and practice. Theoretically, indigenous people have the right to self-determination and can claim their right, and refuse to take part in activities not consistent with their identity as indigenous people, but in reality and in practice, the situation is different.

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