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Bahir Dar University Journal of Law

ISSN (e): 2709-5827 ISSN (P): 2306-224X

Vol.16 No.1 December 2025

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A Biannual Law Journal Published by Bahir Dar University, School of Law, Since 2010

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Articles

A Historical and Legal Evolution of Property Tax in Ethiopia: From Ancient Land Tributes to Proclamation No. 1365/2025

Misganaw Gashaw§ Elias Nour § and Melkamu Belachew §

Abstract

This article traces the historical evolution of property tax in Ethiopia from pre-modern tribute systems to Federal Property Tax Proclamation No. 1365/2025. Using doctrinal and historical-legal analysis, it examines how changes in land tenure, governance structures, and fiscal policy shaped land-based taxes. Before the 1940s, public revenue largely consisted of tributes and in-kind contributions associated with land and agrarian production. Reforms introduced during the Italian occupation (1936–1941) and the post-liberation period laid the foundations of a modern property tax system through monetization, land registration, and the establishment of local administration. However, the laws were limited in scope and detail, and the reforms remained centralized and institutionally weak. The 1974 Revolution and subsequent socialist reforms fundamentally reversed this trend. It abolished private ownership, replaced land taxes with rent- and fee-based systems, and confined recurrent taxes to urban houses. Following 1991, decentralization and market-oriented reforms created opportunities for change, but continued public ownership of land, weak local government capacity, and fragmented municipal revenue systems

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constrained progress. These conditions prompted a reform process in 2011 that culminated, after fourteen years of delay and contestation, in Proclamation No. 1365/2025 and a model law for regional states. Although it marks a major milestone, significant legal, institutional, and administrative challenges remain. The article argues that Ethiopia's property tax system is historically path-dependent and shaped by enduring tensions in land governance and local administration. Accordingly, its effective implementation requires historically informed institutional reform.

Keywords: Property Tax; Fiscal History; Ethiopia; Property Tax Reform; Federal Property Tax Proclamation No. 1365/2025.

1. Introduction

Taxing property is among the oldest instruments of public finance, with origins in land-based tributes and agrarian levies that predate modern fiscal systems.[1] Its relative importance however declined with the rise of income and consumption taxes in industrialized economies, and with rent-based systems in socialist regimes.[2] Again, property tax reforms have re-emerged since the 1990s as a central component of fiscal reform, driven mainly by rapid urbanization.[3] In developing and transition economies, this resurgence has been driven by decentralization, land reform, and the restructuring of municipal finance,

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[1] David Kerr, Dennis Lassila, Katherine Taken and Lawrence Murphy, Historical Development of Taxation From Ancient Times to Modern Day: Implications for the Future, Journal of Accounting and Finance, Vol. 25, No. 1, 2025, PP. 53-76; See also Richard Henry Carlson, A Brief History of Property Tax, Fair and Equitable, Vol. 3, No. 2, 2005, PP. 3–9

[2] Cheryl W. Gray, Tax Systems in the Reforming Socialist Economies of Europe, The World Bank Working Paper, WPS 501, 1990, PP. 1-2

[3] Ibid

while in advanced economies it reflects efforts to capture rising land values and secure stable, locally anchored revenue sources.[4] Property tax, like other forms of taxes, has distinct normative and practical advantages and limitations and, is not static rather it evolves over time in response to changing legal, administrative, land tenure, and socio-political contexts.[5] Nevertheless, it remains underdeveloped in many developing and transition economies, particularly in Africa, where gaps in legal frameworks, administrative weaknesses, political resistance, and institutional constraints continue to limit its effectiveness.[6] Increasingly, the literature recognizes that these constraints are not merely technical but are deeply rooted in historical and legal trajectories that shape the design, legitimacy, and enforceability of tax systems.[7]

Ethiopia presents a particularly instructive case in this regard, given its long-standing experience with land- and property-based revenue

[4] Tom Goodfellow, Taxing Property in a Neo-Developmental State: The Politics of Urban Land Value Capture in Rwanda and Ethiopia, African Affairs, Vol. 116, 2017, PP. 549-572; See also Kodjo Adandohoin and Jean-Francois Brun, The Role of Income and Property Taxes in Tax Transition and the Mediating Effect of Financial Development, Economics, Vol. 10, No. 2, 2021, PP.46-63.

[5] Richard M. Bird and Enid Slack, Land and Property Taxation in 25 Countries: A Comparative Review, Research Reports, CESifo DICE Report: Journal for Institutional Comparisons, Vol. 3, No. 3, 2005, PP. 34-42; John Norregaard, Taxing Immovable Property: Revenue Potential and Implementation Challenges, In Benedict J. Clements, Ruud A. de Mooij, Sanjeev Gupta, and Michael Keen (eds), Inequality and Fiscal Policy, International Monetary Fund, 2015, PP. 193-195. Property tax is valued for its stability, transparency, local revenue linkage, and economic efficiency due to its immobile base, but it faces significant challenges, including political resistance, administrative complexities such as registration and valuation, potential inequities, and weak enforcement in practice.

[6] See generally, William J. McCluskey and Riël C.D. Franzsen, Property Tax Reform in Africa Challenges and Potential, World Bank Conference on Land and Poverty, Washington DC, March 14-18, 2016

[7] See generally, Glenn W. Fisher, Some Lessons from the History of the Property Tax, Assessment Journal, Vol. 4, No. 3, 1997, PP. 40-46; Stacy Sirmans, Dean Gatzlaff and David Macpherson, The History of Property Tax Capitalizationin Real Estate, Journal of Real Estate Literature, Vol. 16, No. 3, 2008, PP. 327-344

systems and, paradoxically, the absence of property tax in the proper sense within its current tax system.[8] Land has historically served as a central economic resource, a basis of political power and governance, and a key source of state revenue across successive regimes.[9] However, the evolution of property tax has been neither linear nor cumulative across the ancient, medieval, and early modern periods.[10] Pre-modern systems were dominated by tribute and in-kind obligations embedded in hierarchical and often coercive relations.[11] The post-1940s reforms introduced key features of modern taxation, such as monetization, land measurement, and formal administrative structures, but remained centralized, legally thin, and administratively limited.[12] This trajectory was fundamentally disrupted under the Derg regime (1974–1991), which abolished private land ownership and replaced tax-based systems with rent- and fee-based arrangements.[13] This eroded the legal and institutional foundations of property taxation to date.

In the post-1991 federal period, decentralization and economic liberalization reforms raised expectations of an enabling framework for local revenue mobilization.[14] Nevertheless, the persistence of public

[8] See generally, Misganaw Gashaw, Property Tax Law and Reforms in Ethiopia, In Misganaw Gashaw et als, Ethiopian Tax Law: A Textbook, Ethiopian Law School's Association (ELSA), 2022, PP. 382-437

[9] See generally, Berhanu Abegaz, Persistent Stasis in a Tributary Mode of Production: The Peasant Economy of Ethiopia, Journal of Agrarian Change, Vol. 5, No. 3, 2005, PP. 299-333; Daniel Weldegebriel, Land Rights in Ethiopia: Ownership, Equity, and Liberty in Land Use Rights, FIG Working Week 2012, Rome, Italy, 6-10 May 2012.

[10] See generally, Taddese Lencho, Towards Legislative History of Modern Taxes in Ethiopia: 1941-2008, Journal of Ethiopian Law, Vol. 25 No. 2, 2012, PP. 104-158

[11] Berhanu Abegaz, *Supra* note 9

[12] Supra note 10

[13] Ibid

[14] Wassihun Gebreegizaber, The Tragedies of a State Dominated Political Economy: Shared Vices among the Imperial, Derg, and EPRDF Regimes of Ethiopia, Development Studies, Vol. 7, No. 1, 2020, PP. 72-82

land ownership, weak local government capacity, and fragmented municipal revenue systems impeded the emergence of a coherent and productive property tax regime.[15] As a result, Urban Local Governments (ULGs) have been unable to capture rising urban land values and continue to rely heavily on intergovernmental transfers, donor support, and limited municipal revenue instruments that are insufficient to finance urban services, infrastructure, and development objectives.[16] In response to these structural challenges, Ethiopia launched a dual-track reform of municipal revenue and property tax in 2011.[17] This reform, which had stalled for over a decade, was reinvigorated by the introduction of the Homegrown Economic Reform Agenda in 2019 and seeks to reposition property tax as a central instrument of ULG financing in the context of rapid urbanization and increasing demand for public services and infrastructure.[18] This process led to a joint resolution[19] by the two federal houses on the property tax assignment question in January 2023, followed by the adoption of the Federal Property Tax Proclamation No. 1365/2025[20] by the federal parliament

[15] Zemelak Ayitenew and Yonatan Tesfaye, The Constitutional Status of Local Government in Federal Systems: The case of Ethiopia, Journal Africa Today, Vol. 58, No. 4, PP, 89-109; Tamirat Delelegn, The Legal Basis of Self-Rule in Ethiopian Cities, Journal of Ethiopian Law, Vol. 26 No. 1, 2013, PP. 39-93; Daniel Weldegebriel, Supra Note 9

[16] See generally, World Bank, Ethiopia Urbanization Review: Urban Institutions for a Middle-Income Ethiopia., World Bank Publications No 22979, 2015; Seid Hussen, Hans Lind and Belachew Yirsaw Alemu, Understanding Urban Land Leasing System as a Strategic Value Capture Instrument to Enhance Urban Revenue in Ethiopia: A Case Study of Bahir Dar City, Economies, Vol. 10, No. 6, 2022.

[17] Ibid; FDRE Ministry of Finance, National Medium-Term Revenue Strategy (NMTRS) (2024/25- 2027/28), August 2024

[18] Ibid

[19] Joint decision of the House of Federation (HoF) and the House of People's Representatives (HoPRs), 3r year and 6th tenure, January 11, 2023 (Hereinafter the Joint Decision of HoF and HoPRs)

[20] Federal Property Tax Proclamation No. 1365/2025, Federal Negarit Gazeta, 31st Year, No. 32. (Hereinafter Proclamation No. 1365/ 2025)

and the preparation of a Regional Model Law[21] by the Ministry of Finance (MoF), in consultation with the Ministry of Urban and Infrastructure (MoUI) and the Ministry of Revenue (MoR). These developments mark a significant, though still contested and incomplete and require further reforms, milestone in the reintroduction of property tax within the fiscal and legal framework of urban Ethiopia.

A cursory examination of this uneven and discontinuous history of property tax in Ethiopia raises a central question: how has property tax evolved across successive regimes, and how do historical legacies continue to shape its design, implementation, and effectiveness, both now and in the future? Despite its importance, there is a lack of sufficiently integrated studies that connect these historical developments to ongoing reform efforts.[22] To address this gap, the article, through a doctrinal and historical-legal approach, analyzes successive phases of

[21] MoF, "The … Regional State Property Tax Proclamation No. …/2025, A Model Regional Property Tax Law, 2025 (hereinafter "Regional Model Law")

[22] Richard Pankhurst, Tribute, Taxation and Government Revenues in Nineteenth and early Twentieth Century Ethiopia, Journal of Ethiopian Studies, Vol. 5, No. 2, 1967, PP. 37-87; Richard Pankhurst, Ethiopian Tax Documents of the Early Twentieth Century, Journal of Ethiopian Studies, Vol. 11, No. 2, 1973, PP. 157-166; Richard Pankhurst, Ethiopian Taxation Prior to the Time of Menilek: A Collation and Analysis of Estimates (Part One), Northeast African Studies, Vol. 5, No. 3, 1984, PP. 59-81; Richard Pankhurst, Tax records and inventories of Emperor Téwodros of Ethiopia, 1855-1868, International Union of Academies, 1978; Richard Pankhurst , The History of Taxation in Northern Ethiopia, Horn of Africa, Vol. 4 , No. 2, 1981, PP. 26-31; *Supra* note 10; Tilahun Dires, The Historical Development of Real Property Tax Laws in Ethiopia: A Critical Review of The Laws, International Journal of Graduate Research and Review, Vol. 7, No. 1, 2021, PP. 1-10. In developing this article, the author reviewed these and other relevant literature in the field, as duly cited. The review indicates that only a limited number of studies address this subject, and they do not fully engage with the present research question. Earlier work by Richard Pankhurst, although detailed and valuable, does not sufficiently connect historical developments to contemporary reform initiatives. Tadesse's work, while providing a useful overview of the legislative history of tax law more broadly, pays limited attention to property taxation. Tilahun's study, although more recent and specifically focused on property taxation, falls short of offering a comprehensive analysis that spans the ancient, medieval, and modern periods.

land-based revenue systems and property taxes in relation to broader transformations in law, governance, land tenure, and fiscal policy.

The article is organized into seven sections. Following this introduction, Section 2 examines the era of tribute and traditional tax in the pre-1940s period, including land-based tributes in ancient and medieval Ethiopia, reform attempts between 1855 and 1935, and colonial interventions during the Italian occupation (1935–1941).Section 3 analyzes early reform efforts to institutionalize modern property tax between 1941 and 1974, with particular attention to rural and urban tax reforms and their revenue implications. Section 4 examines property tax under the Derg regime (1974–1991), focusing on institutional disruption and policy shifts. Section 5 considers developments in the post-1991 federal period, highlighting the marginalization of property tax and pre-reform dynamics. Section 6 provides an overview of post-2011 reform initiatives culminating in the adoption of Proclamation No. 1365/2025. The article concludes in Section 7 with a synthesis of key historical and legal insights and an assessment of their implications for contemporary property tax reform in Ethiopia.

2. The Era of Tribute and Traditional Taxation (Pre-1940s)

Ethiopia, one of the world's oldest continuously sovereign states, has developed a complex and evolving system of land- and property-based taxation rooted in its political, cultural, and religious traditions. As widely recognized in the historical literature, this period reflects a dynamic trajectory of state formation, political authority, land tenure systems, and taxation practices.[23] From a fiscal perspective, it is best

[23] Ibid; It is difficult to characterize revenue exactions during this period as taxes in their

understood as an era of tribute-based and traditional taxation, characterized by both continuity and gradual transformation.[24] For analytical clarity, this section is divided into three sub-parts: (i) land-based tributes and taxation in ancient and medieval Ethiopia; (ii) reform efforts in the modern period (1855–1935); and (iii) colonial reforms during the Italian occupation (1935–1941).

2.1. Land Based Tributes and Taxes in Ancient and Medieval Ethiopia

Ancient and medieval Ethiopian history spans the period from the Aksumite civilization (c. 1st–10th centuries AD) through the Zagwe dynasty and the restoration of the Solomonic dynasty in 1270, which had continued in different forms until 1974.[25] During this period, state revenue was closely tied to prevailing land tenure systems and the decentralized structure of governance.[26] Moreover, given low levels of urbanization and a predominantly agrarian economy[27], the fiscal regime

modern sense. For a comprehensive account of the ancient, medieval, and modern history of Ethiopia, See Sergew Hable Sellassie, Ancient and Medieval Ethiopian History to 1270, Haile Selassie I University, 1972; and Bahru Zewde, A History of Modern Ethiopia: 1855–1991, James Currey, 2001.

[24] For an extensive treatment of taxation prior to 1940s, See Richard Pankhurst, Economic History of Ethiopia: 1800-1935, Haile Selassie University Press, 1968, PP. 504-544

[25] Ibid; Although historians commonly extend the history of Ethiopia to the periods of Punt (c. 2800–500 BCE) and DʿMT (c. 500 BCE–100 CE), which provided the antecedents of northern Ethiopian civilization, this article begins with Aksum, as it marks the emergence of formal governance and is better documented in the literature. In addition, for clarity, the analysis in this section extends only to the emergence of modern Ethiopia in 1855.

[26] Siegbert Uhlig (eds), Encyclopaedia Aethiopica, Vol. 2, D - Ha, 'Gébér', Otto Harrassowitz GmbH & Co. KG, Wiesbaden, 2005; See also Richard Pankhurst, Tribute, Taxation and Government Revenues in Nineteenth and early Twentieth Century Ethiopia, Journal of Ethiopian Studies, Vol. 5, No. 2, 1967, PP. 37-87

[27] See generally Ronald J. Horvath, The Wandering Capitals of Ethiopia, The Journal of African History, Vol. 10, No. 2, 1969, PP. 205-219; Frederick C. Gamst, Peasantries and Elites without Urbanism: the Civilization of Ethiopia, Comparative Studies in Society and History, Vol. 12, No. 4, 1970, PP. 373-392.

was largely shaped by customary norms and oral traditions.[28] These arrangements institutionalized land as the primary locus of political power, administrative authority, and fiscal extraction and this structural understanding that endured well into the twentieth century.[29] Land was widely regarded as a divine endowment ultimately vested in the monarch, such that the emperor held theoretical ownership of all land and exercised authority by granting large tracts to nobles, church leaders, state servants, and local rulers.[30] Provincial and local authorities, which functioned as intermediaries, collected tributes and taxes on behalf of the imperial center and remitted the proceeds after retaining a portion for their own administration and sustenance.[31] This decentralized fiscal structure reinforced royal legitimacy and political hierarchy while institutionalizing a stratified social order.[32] Tax obligations were typically discharged in kind and through services such as livestock, grain, artisanal goods, or labor, which often rendered the system arbitrary, burdensome, and regressive for peasant households.[33]

During the Aksumite period, as in many ancient dynastic states, taxation

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[28] Muradu Abdo, Legal History and Traditions: Teaching Material, Justice and Legal System Research Institute, 2009, P. 242 It is also important to note that there were times when foreign land tax systems were imposed in Ethiopia. A notable example is the Egyptian occupation of Harar from 1875 to 1885, during which they introduced and applied their own laws of land and taxation. Similarly, laws developed by Italy for its African colonies, under the framework of *Africa Orientale Italiana*, were implemented in Eritrea from 1890 to 1941 and in Ethiopia during the Italian occupation from 1936 to 1941.

[29] Berhanu Abegaz, *Supra* note 9, PP. 121-122

[30] Siegbert Uhlig (eds), Encyclopaedia Aethiopica, Vol. 4, O-X, 'Tributes and Traditional Taxation' Otto Harrassowitz GmbH & Co. KG, Wiesbaden, 2010.

[31] Ibid; See also Daniel Woldegebriel, Land Rights and Expropriation in Ethiopia, PhD Thesis, Royal Institute of Technology (KTH), 2013, PP. 41-42. Revenue collected by church leaders and servants was used by the church for religious functions and was not required to be transferred to the state.

[32] Bahru Zewde, *Supra* note 23, P. 14.

[33] Ibid

took the form of obligatory tributes imposed on conquered and subordinate regions.[34] These were largely in-kind payments and served as central mechanisms of political control and resource mobilization, particularly in the heigh days of the civilization. The Zagwe period (c. 1137–1270) was a transformative era marked by a centralized, religion-based state that expanded church land grants and refined tribute systems. This shaped land administration and revenue extraction practices until the restoration of the Solomonic state. The early period of the Solomonic dynasty, which traced its legitimacy to a claimed descent from King Solomon and the Queen of Sheba, was marked by feudal land administration and heavy taxation to fund the military and territorial expansion.[35]

Royal chronicles, particularly those of Emperor Yéshaq (r. 1414–1430) and Emperor Zär'a Yaʿeqob (r. 1434–1468), indicate a gradual consolidation of fiscal practices, with more structured articulation of vassal obligations in the form of livestock, agricultural produce, textiles, and precious metals, reflecting the agrarian character of the economy.[36] Prior to the mid-fifteenth century, tax remained localized and informal, embedded in customary and religious practices, with limited reliance on written rules or centralized administration.[37] A degree of formalization emerged with normative texts such as the *Fäwse Mänfäsawi* and the *Fetha Nagast*, which codified aspects of governance and obligations

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[34] Gebrie Worku Mengesha, Tax Accounting in Ethiopian Context, Alem Printing Press (2nd Ed), 2008, PP. 2-12

[35] Ibid Mamman Musa Adamu, The Legend of Queen Sheba, the Solomonic Dynasty and Ethiopian History: An Analysis, *African Research Review,* Vol. 3, No. 1, 2009, PP. 468-482

[36] Ibid

[37] Aberra Jembere, An Introduction to the Legal History of Ethiopia: 1434-1974, Lit Verslag, 2000, P. 231. Kings and local rulers often referred to the Holy Bible and the Holy Qur'an to assert tax obligations and payments, and this gradually became embedded as a customary norm.

between rulers and subjects.[38] Although not tax codes in the modern sense, these texts contributed to the normative foundations of fiscal authority. Nonetheless, fiscal practices remained heterogeneous and loosely institutionalized, reflecting a political economy centered on tribute rather than standardized taxation.[39] Royal chronicles remain the principal sources for this period, documenting tributary relations and the scope and organization of early fiscal arrangements.[40]

Fiscal practices in Muslim-governed territories introduced an additional layer of complexity to Ethiopia's already fragmented tax regime. Where Muslim rulers exercised control, they imposed the *Gizya* (poll tax) on non-Muslim, primarily Christian, populations.[41] Rooted in Islamic jurisprudence, the tax functioned both as a revenue instrument and as a marker of political subordination as well as protection and limited religious autonomy in return. In frontier and contested areas, the *Gizya* often overlapped with existing tribute obligations to the Christian polity, which produced dual fiscal burdens and administrative ambiguity.[42] This

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[38] Ibid. The *Fäwse Mänfäsawi*, compiled around 1450 under Emperor Zär'a Yaʿeqob, is a codified legal text of 62 mainly spiritual provisions drawn from biblical and canonical sources, intended to regulate religious and customary practices through formalized rules. The *Fetha Nagast*, originally written in Arabic in the thirteenth century and later translated into Geʿez during the reign of Zär'a Yaʿeqob around 1450, served as the supreme legal code, combining ecclesiastical and secular rules and governing various matters until the early twentieth century. These texts shaped legal thought as well as state taxing power and land governance.

[39] Ibid; See also Zuzanna Augustyniak, The Genesis of the Contemporary Ethiopian Legal System, University of Warsaw Studies of the Department of African Languages and Cultures, No 46, 2012

[40] Siegbert Uhlig (eds), Encyclopaedia Aethiopica, Vol. 4, O-X, 'Tributes and Traditional Taxation' Otto Harrassowitz GmbH & Co. KG, Wiesbaden, 2010.

[41] Siegbert Uhlig (eds), Encyclopaedia Aethiopica, Vol. 2, D - Ha, 'Gizya' Otto Harrassowitz GmbH & Co. KG, Wiesbaden, 2005

[42] Abdulmalik Abubaker, Taxes, Tax Payers and Collectors-Pre and Post Menelik: Harari Experience, Journal of Accounting and Taxation, Vol. 9, No. 3, pp. 23-35, 2017. For example, many of the regions under Gizya continued to pay tribute to the Christian emperor.

dynamic became particularly pronounced during the campaigns of Ahmad ibn Ibrahim al-Ghazi (r. 1527–1543), when the tax was extended across large parts of the Christian highlands.[43] Typically collected in kind, it operated as both an economic exaction and a symbol of shifting sovereignty. The episode underscores the close interrelationship between taxation, religious authority, and political control in pre-modern Ethiopia, where fiscal systems reflected broader struggles over legitimacy and state formation.

Following the defeat of Ahmad Gragn, the Solomonic state moved to reassert and consolidate earlier administrative and fiscal practices. Historical evidence shows that Emperor Gälawdewos (r. 1540–1559) introduced the "Queima" tax in the 1550s, likely to rehabilitate his kingdom after the war.[44] This consolidation became more structured during the reign of Emperor Zä Dengel (r. 1603–1605), who introduced clearer territorial units for governance and tax collection.[45] A central organizing principle of this period is captured in the maxim "man is free, land is tributary," which reflects the prevailing legal logic that individuals were formally free, while access to land entailed obligatory tribute.[46] Peasants retained cultivation rights but were required to provide tribute in kind, labor services, and agricultural produce to the state, landlords, or the church, which demonstrates the close fusion of

[43] *Supra* note 41

[44] Ishikawa Hiroki, Cattle Tax "Queima" in Northern Ethiopia during the Oromo Migration Period, Journal of African Studies, Vol. 2006, No. 69, 2006, PP. 45-57. The tax continued and was abolished only by Emperor Yohännes I in 1667 due to its heavy burden and public dissatisfaction under his predecessor.

[45] *Supra* note 40

[46] Ibid; See also Donald Crummey, Land and Society in the Christian Kingdom of Ethiopia, From 13th to the 20th C., 2000, P. 74

land tenure and fiscal obligations.[47]

At times, this arrangement assumed the features of a tributary mode of production, in which 'surplus' extraction sustained a hierarchical structure of power.[48] As such nobles, provincial authorities, clergy, and military leaders depended on transfers from the peasantry and urban producers. Other social groups were also integrated into this system. For example, artisans met obligations through production quotas such as iron tools or woven cloth, merchants paid duties on profits and transactions of their trade, and pastoralists and hunters were subject to various in kind levies. However, although the system appeared broadly inclusive, the scale and intensity of the burden fell disproportionately on rural landholders. For example, in the early sixteenth century, the Portuguese envoy Francisco Álvares recorded substantial annual tributes from provinces such as Gojjam and Begemidir, which were highly productive and supplied regular tributes of cloth, grain, and other goods to the royal court.[49] In the seventeenth century, Jesuit sources described annual gold contributions from Énnarya and periodic grain and livestock exactions in Dambéya.[50] In addition to these periodic and formal requirements, rural populations were expected to provide food and lodging to traveling officials and soldiers, which further intensified the

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[47] Berhanu Abegaz, *Supra* note 9

[48] *Supra* note 40

[49] Ibid. See also Mathilde Alain, Dicono li Ethiopi': Ethiopian Contributions to Francisco Álvares's Travel Account to Ethiopia (c.1540), *Modern Humanities Research Association Working Papers in the Humanities, No.* 18, 2023, PP. 5–14. For the province of Gojjam alone, annual tribute to the central king reportedly included 3,000 mules, 3,000 horses, and 3,000 pieces of cloth.

[50] See Leonardo C. Shabot and Andreu M. d'Alòs-Moner, The Jesuit Mission in Ethiopia (16th – 17th Centuries): an Analytical Bibliography, Aethiopica, No. 09, 2006, PP. 190–212. According to the missionary Manoel de Almeida, Énnarya annually contributed between 1,000 and 1,500 wäqet (gold ounces), and Dambéya was required to deliver one load of grain per household each year and one out of every ten animals every three years.

fiscal burden.[51]

In the pre-modern period, the cities of Harar and Gondar illustrate early forms of urban governance, albeit within distinct legal, cultural, land tenure, and fiscal systems. The Emirate of Harar, which emerged in the thirteenth century and reached its peak in the sixteenth, developed a relatively advanced system of land tenure and taxation grounded in Islamic legal traditions.[52] The city of Harar is also recognized as having maintained autonomy despite complex economic and political relationships with surrounding Oromo and Somali groups and increasing pressure from the Turco-Egyptian occupation.[53] Its administration maintained systematic records of land and house ownership, required the authentication of immovable property through Qadi courts, and provided for the issuance of formal title deeds (*huja*) by the Emir.[54] Taxes such as *kharaj* (land tax) and *ushr* (tithe) applied irrespective of ownership status, alongside additional levies on property authentication and registration.[55] The fiscal system also included specialized taxes such as *Anka* (collected from threshing floors), *hudad* or *badal* (paid in lieu of labor on public agricultural land), and *Kalab* (earmarked for military maintenance).[56] These practices indicate a comparatively sophisticated approach to land administration and revenue extraction, as well as a differentiated and functionally organized fiscal structure.

[51] *Supra* note 40
[52] *Supra* note 42; See also Abdul Azim, Kharaj and Land Proprietary Right in the Sixteenth Century: An Example of Law and Economics, Journal of Objective Studies, Vol. 19, No. 1, 2008, PP. 29-44.
[53] Richard A. Caulk, Harär Town and Its Neighbours in the Nineteenth Century, The Journal of African History Vol. 18, No. 3 , 1977, PP. 369-386
[54] *Supra* note 42
[55] Ibid
[56] Ibid

Gondar's historical significance begins with its establishment as the imperial capital in the early seventeenth century, which marked a decisive shift from a mobile court to a relatively permanent administrative center. During the Gondarine period (1632–1769), the revival of the imperial apparatus and the establishment of Gondar as the imperial capital fostered the development of urban land relations and taxation.[57] Land tenure came to operate through a dual system of *rist* (hereditary rights) and *gult* (land grants), which linked fiscal extraction and tribute, through labor and agricultural produce, to hierarchical political power.[58] The growth of urban institutions led to land registration and surveying practices, which further supported an emerging framework for property-related revenue. For example, under the reign of Emperor Iyyāsu I (r. 1682–1706), when Gondar reached its peak as a political and cultural center, taxation and land grant regulation became central components of imperial governance.[59] Given the growing importance of markets, artisanal production, and long-distance trade, land taxes were levied on commercial activities based in the city.[60] Thus, although no uniform or codified property tax system existed; fiscal obligations remained closely tied to landholding, imperial authority, and hierarchical social structures, which underscore the embeddedness of state revenue within broader governance

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[57] Berhanu Abegaz, Supra Note 9, PP. 57–84; Sisay Sahile, A Critical Edition and Annotated Translation of the Late Nineteenth and Early Twentieth Century Treatise: Tārik Zamədra Gondar (The History of the Land of Gondar), PhD dissertation, Universität Hamburg, June 2021, PP. 6-7;

[58] Ibid; See also Habtamu Mengistie, Rethinking Property and Society in Gondärine Ethiopia, African Studies Review, Vol. 52, No. 3, 2013, PP. 89-106

[59] Ibid. Emperor Iyyasu I is remembered for his critical role, as reflected in the saying commonly cited by oral historians of the city: '**ፋሲልየተከለውኢያሱየደለደለው**' ("What Fasil founded, Iyyasu made firm"). Emperor Fasilides (r. 1632- 1667) is renowned for establishing Gondar as the capital city in 1636, which marked the beginning of the Gondarine period.

[60] Ibid

arrangements.[61]

The onset of the Zemene Mesafint, or Era of the Princes (1769–1855), marked a period of acute political fragmentation in which central imperial authority was reduced to a nominal presence in Gondar and regional lords exercised de facto power. Although some characterize it as a tradition of independence and self-government, the fragmentation and recurrent conflict and economic decline clearly weakened administrative coordination and fiscal coherence.[62] In the absence of a strong central authority, regional rulers asserted autonomous control over taxation and revenue extraction, which led to a proliferation of overlapping and often arbitrary fiscal demands, such as land taxes, tribute, war levies, hospitality obligations, and ceremonial exactions.[63] Such revenue systems lacked consistency and equity and reflected the militarized and patronage-based nature of governance. The intensification of fiscal extraction, combined with weak accountability, enabled widespread abuse by tax collectors and local elites.[64] For example, in Shäwa, arbitrary appropriation or use of force was the common method of collecting tax and tribute from the peasants and this had caused conflict between the appropriators and producers.[65] For rural peasants and smallholders, in particular, the system became increasingly unpredictable and coercive.[66] In response, many adopted evasive

[61] See Tilahun Dires and Misganaw Gashaw, Issues of Design in Ethiopia's Property Tax Reform: Lessons from Previous Legislative Regimes and Other Jurisdictions, Bahir Dar University Journal of Law, Vol.13, No.1, 2022, PP. 197-198

[62] Berhanu Abegaz, *Supra* note 9, PP. 80-81

[63] Ibid

[64] Habtamu Mengistie, *Supra* note 58

[65] Dechasa Abebe, A Socio-Economic History of North Shäwa, Ethiopia (1880s-1935), PhD Thesis University of South Africa, 2015, P. 103. Such methods were common and continued until Menilek became king, particularly during wars and conflicts.

[66] Ibid

strategies, such as concealing produce, underreporting yields, bribing officials, or relocating to less accessible areas to avoid taxation and forced labor.[67] While such practices offered short-term relief, they disrupted local economies and reinforced distrust between rulers and subjects.[68] The Zemene Mesafint thus represents a period in which fiscal practices shifted from instruments of governance to mechanisms of exploitation, entrenching patterns of resistance that continued to shape state-society relations in subsequent periods.

2.2. Reforms Attempt in Modern History of Ethiopia (1855-1935)

The evolution of property-related taxation in modern Ethiopia is closely linked to the state-building and modernization efforts initiated during the reign of Emperor Tewodros II (r. 1855–1868). This period marked a decisive departure from the highly decentralized and extractive fiscal practices of the Zemene Mesafint. Although it cannot be said fully successful, Tewodros II's reforms sought to re-establish centralized imperial authority and rationalize fiscal administration within a largely traditional framework.[69] Key measures included the removal of redundant internal customs posts, efforts to curb abuses by military officials, and the introduction of the country's first systematic tax records.[70] The Emperor also attempted to tax previously exempt church lands to finance the state, a measure that encountered strong resistance.[71]

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[67] Ibid

[68] Ibid

[69] Richard Pankhurst, *Supra* note 26

[70] Ibid. For example, the Emperor annually received substantial cash revenues, including about 190,000 Maria Theresa thalers from Tigray and 47,000 thalers from Bagemder, in addition to tribute in livestock.

[71] Fasil Merawi, Emperor Tewodros II and the Antithesis Between Modernity and Tradition in Ethiopia, International Journal of European Studies, Vol. 6, No. 1, PP. 5-11

Despite these initiatives, the regime faced persistent difficulties in mobilizing revenue and remained fiscally constrained, as other rulers did.[72] Subsequent rulers, including Emperor Yohannes IV (r. 1872–1889) and Emperor Menelik II (r. 1889–1913), largely maintained and expanded these fiscal arrangements.[73] These regimes continued to rely heavily on in-kind taxation and labor obligations to consolidate imperial authority and finance territorial expansion, particularly into the southern and western regions.[74] While these measures contributed to administrative centralization and revenue consolidation, they did not fundamentally alter the hierarchical land tenure systems and dependent on agrarian surplus extraction.

Taxes and tributes during this period were shaped by prevailing land tenure arrangements, notably the *rist* and *gult* systems, which varied across regions and structured both the nature and distribution of taxation.[75] In the northern highlands, the *rist* system provided inheritable land rights based on lineage and granted relative tenure security, subject

[72] Richard Pankhurst and Germa-Selassie Asfaw, Tax Records and Inventories of Emperor Téwodros of Ethiopia, 1855-1868, School of Oriental and African Studies, 1979, P. 170-173. Explaining his difficulties to Queen Victoria's envoy Hormuz Rassam in June 1866, he remarked: "The people of my country… would sooner bury their money in the ground than trade with it or pay me a percentage out of it." When the envoy mentioned the existence in Britain of taxes on horses and male servants, Tewodros responded: "Mr. Rassam, you do not know the Abyssinians. Were I to tax their mules, horses, and domestic servants, not one of them would ride; every man would become his own servant."

[73] Bahru Zewde, Economic Origins of the Absolutist State In Ethiopia (1916-1935), Journal of Ethiopian Studies, Vol. 17, 1984, PP. 1-29

[74] Ibid

[75] See generally, Daniel Woldegebriel, *Supra* note 31, PP. 41-58; Wibke Crewett, Ayalneh Bogale, and Benedikt Korf, Land Tenure in Ethiopia Continuity and Change, Shifting Rulers, and the Quest for State Control, CAPRi Working Paper No. 91, 2008, PP.5-19. Rist was a group right derived from familial lineage and passed down through generations, but, as a general rule, it was unsaleable. In contrast, gult did not confer ownership of land but rather the authority to administer it and collect tribute from landholders in return for military or administrative service, and it was not heritable. Despite differences in tenure security, revenue obligations applied under both systems.

to tax obligations. In contrast, in the south, lands incorporated during expansion were largely classified as state or crown land and redistributed to the ruling class and officials, church institutions, and imperial appointees, effectively transforming local populations into tenant cultivators.[76] Under the *gult* system, land grants conferred fiscal authority on nobles and officials, who collected tribute, often amounting to up to one-third of agricultural produce and labor services.[77] Land directly administered by the emperor remitted revenue to the crown, while other categories generated shared revenues among the church (*sämon*) and local officials (*melkegna*).[78] Semi-autonomous regions, such as Jimma Abbaa Jifaar, retained limited autonomy by paying tribute rather than being fully integrated into the imperial fiscal system.[79] The existence of additional landholding categories, such as *gabbar* (tenant-held land), *siso* (requiring one-third produce payment), *rist-gult* (heritable land tied to state service), and *sämon* (church-assigned land), further illustrate the complexity and hierarchy of the system, in which revenue flowed through multiple layers from peasants to local authorities and ultimately to the emperor.[80]

Beyond *rist*- and *gult*-based obligations, individuals and communities were subject to a wide range of fiscal and quasi-fiscal duties tied to land access. These included *feré géber* (land tax), *asrat* (tithe to the state and church), military conscription, corvée labor, hospitality obligations, and religious contributions.[81] The cumulative burden rendered the system highly extractive and regressive, disproportionately affecting rural

[76] Ibid
[77] Ibid
[78] Ibid; See also *Supra* note 65, PP. 102-130
[79] Ibid
[80] Ibid
[81] Ibid

cultivators. Reform efforts under Emperor Menelik II included the formalization of the *asrat* tithe as a fixed share of agricultural output in 1892 and the introduction of new levies, such as cattle and elephant hunting taxes, to support emerging state functions and infrastructure development, including the construction of the Djibouti-Addis Ababa railway.[82] These measures contributed to a gradual shift toward monetization; available evidence indicates that by 1902 approximately 57 percent of state revenue was collected in cash. However, the measures had limited or uneven reach and in-kind payments and labor obligations persisted across much of the country.[83] This dual structure was accompanied by arbitrary enforcement and taxpayer resistance, including evasion strategies such as concealing produce or refusing to make cash payments.[84]

Another notable development was the formalization of the *qalad* system as a method of land measurement in the late nineteenth century, which played an important role in structuring landholding arrangements and securing revenue for the state and the military, particularly in the southern, southwestern, and eastern regions.[85] Together with the broader process of monetization, these initiatives laid the groundwork for the gradual emergence of a more formal property tax regime.[86] Although earlier rulers, including Emperor Tewodros II, had attempted land

82 Richard Pankhurst, Ethiopian Tax Documents of the Early Twentieth Century, Journal of Ethiopian Studies, Vol. 11, No. 2, 1973, PP. 157-166

83 Ibid

84 Ibid

85 See generally, Temesgen Gebeyehu, Land Tenure, Land Reform and the Qalad System in Ethiopia: 1941–1974, Journal of Asian and African Studies, Vol. 46, No. 6, 2011, PP. 567-577; See also *Supra* Note 73, P. 13. Measurement practices were already in use in Begémdir and began in Shäwa in the 1890s, later spreading to other provinces. Inventory and measurement of all lands in Shäwa was compeleted in 1880. See Supra Note 65, P. 103

86 Richard Pankhurst, *Supra* Note 26

surveys, it was Emperor Menelik II who more systematically implemented land classification and measurement. The reform categorized land into infertile (*tef*), semi-fertile, and fertile (*lame*) classes, and tax or tribute obligations were higher for lame land than for tef land, which reflects differences in productive potential.[87] In regions without *qälad* measurement, taxation was based on large, undivided land units treated as a single taxable plot (**አንድየግብርመሬት**).[88] This provided a basic framework for land revenue collection that persisted until the 1974 land reform and, in some respects, continues to influence regional practices today, as market-based land value assessment remains largely absent in rural areas.[89]

Despite these developments, the emergence of an efficient and equitable tax system remained limited due to structural and administrative constraints, particularly inaccurate land measurement, weak record-keeping, limited administrative capacity, ambiguous land rights, and low bureaucratic incentives.[90] At the same time, important steps were taken toward legal and institutional formalization. For example, tax and land laws began to be issued in various legal forms, such as *awaj* (proclamations), *demb* (regulations), and *ti'ezaz* (orders), and was disseminated through traditional channels such as the *negarit* and *meleket* in communal spaces, and later through emerging print media, including newspapers such as *Aimiro* (from 1906) and *Berhanena Selam* (from 1925).[91] A further turning point occurred in 1907, when the state

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[87] Ibid

[88] *Supra* note 65, P. 105

[89] Temesgen Gebeyehu, Supra note 85. In the 1920s, a farmer with *lame* land was required to pay 80 birr per *gasha*, while *tef* land was taxed at 10 birr per *gasha*.

[90] Daniel Woldegebriel, *Supra* note P. 31, PP. 41-58

[91] Tsegaye Beru, Brief History of the Ethiopian Legal Systems: Past and Present, International Journal of Legal Information, Vol. 41, No. 3, 2013, PP. 335-388

for the first time formally recognized private ownership of urban land and articulated tax based on land value as a policy objective.[92] Although limited in scope and enforcement, this marked an early step toward the institutionalization of property taxation within a more structured legal framework.[93] The establishment of the Ministry of Finance and In-House Treasury (*Yegenzebina Yeguada Ministry*) with a Department of Tax in 1907, helped formalize fiscal policy, modernize tax collection, and manage state finances and property.[94]

However, the reforms initiated were significantly stalled during the final years of the emperor's reign due to his deteriorating health and the resulting succession disputes and administrative disruptions.[95] A persistent problem was the tardiness of assessors in appraising the quantity of harvests and land fertility. In an effort to address this, Lij Iyasu (1913–1916) introduced the practice of relying on the oath of the peasant, which states, "**ከብትከበረቴእህልከመሬቴያጥፋብኝ**," which can be translated as "may God destroy my cattle and crops," to ensure compliance with and the accuracy of tax obligations through moral or divine sanction.[96] The situation also forced provincial rulers to introduce new taxes of their own. For example, in 1920, Ras Haylu of Gojjam introduced *yäçhes geber* (hut tax), which led people to live collectively in a single house, while newly married couples often remained in their

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[92] Richard Pankhurst, State and Land in Ethiopian History, Institute of Ethiopian Studies, 1966, P. 212

[93] *Supra* note 61

[94] Ministry of Finance, "A Brief History of the Ministry of Finance," 29 January 2021, available at Ministry of Finance Ethiopia Facebook Post (accessed 25 January 2026).

[95] Daniel Dejene, Land Tenure Reform and Socioeconomic Structures In Däbrä Marqos (Gojjam), Ethiopia: C.1901-1974 , PhD Thesis University of South Africa, 2020 P. 65

[96] *Supra* note 73, P. 15

parents' homes longer to avoid the tax.[97]

As Regent, Haile Selassie initiated various modernization efforts through a centralized government and undertook key reforms to address inefficiencies in the traditional fiscal system.[98] One of the most important measures was the abolition of unpaid labor under the *gabbar* system, whereby farmers were required to provide labor and tribute to landowners. Beginning in 1923, he also sought to eliminate the slave trade and the institution of slavery, which were intertwined with the social and labor-based taxation system.[99] Another notable reform was the expansion of cash-based taxation, particularly through the use of the Maria Theresa thaler, which was critical to reduce reliance on in-kind payments and promote a market economy.[100] He also initiated land surveying reforms and promoted land measurement to support more equitable taxation with the goal of resolving the problem of lack of accurate land records.[101] In terms of administration, he pursued the centralization of fiscal control by strengthening the authority of the central government and reducing the autonomy of provincial governors

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97 Geremew Eskezia, "The Taxation System of Ras Haylu Täklä Haymanot of Gojjam: 1907–1932," *Ethiopian Journal of Social Sciences*, Vol. 4, No. 1, 2018, pp. 1–16 (p. 9). The tax was so unpopular that a taxpayer in the district of *Méçha* expressed the grievance in a poem, ironically stating:

ጎመኔን ቀንጥሼ ጥሬዉን በላሁት፣
እንዳላበስለዉም የጢሱን ፈራሁት፡፡

"I ate my cabbage raw, as I could not cook it for fear of the smoke." The reference to "smoke" alludes to the hut tax, reflecting the fear that visible signs of domestic activity, such as cooking fires, would expose households to tax assessment and enforcement. The grievance persisted even after the tax was converted into *yä qula geber* (head tax), payable by all adults, whether living together or alone.

98 *Supra* note 94

99 *Supra* note 73, PP. 15-16

100 Ibid

101 Ibid. See also Peter Schwab, "The Tax System of Ethiopia", The American Journal of Economics and Sociology, Vol. 29, No. 1 (1970): 77–88.

who had previously collected and retained taxes.[102] In 1929, a new regulation was enacted requiring the *asrat* tithe to be paid in cash rather than in kind, in order to ensure a more equitable tax system.[103] In 1930, the first paper money was printed so that financial transactions and tax collection could be made easier.[104]

The promulgation of the 1931 Constitution established a legal foundation for modern governance, including a more uniform fiscal framework and greater recognition of land tenure rights, particularly *rist* tenure.[105] The constitution replaced the *Fetha Nagast* and provided that government revenue and expenditure be administered through an annual budget, supervised by the Ministry and ratified by the Emperor and Parliament.[106] Thereafter, tax legislation was enacted through formal parliamentary processes, incorporated preambles and definitions, and was publicly promulgated by the *Tsehafi Te'ezaz* in accordance with constitutional requirements.[107] In 1935, a land law (*awaj*) introduced an annual *qurt geber* (fixed tax) of 30 thalers per *gasha*. The law acknowledged the multiplicity of *geber* obligations imposed on different plots of *gäbbar* land, the difficulties associated with supplying tribute, particularly expensive and inaccessible goods such as honey, and the burden of multiple labor obligations. It therefore sought to rationalize taxation in relation to land administration by simplifying the fiscal

[102] Ibid

[103] Ibid

[104] *Supra* note 94

[105] Bahru Zewde, Supra Note 23, pp. 128–148). In reinforcing the security of rest, Chapter 8 of the 1931 constitution guaranteeing the inviolability of the property of the emperor and the royal family and rest was to be expropriated only in cases of ascertained public utility and after due compensation has been made. See Supra Note 73, P. 14.

[106] Ethiopian Constitution of 1931, His Imperial Majesty Haile Selassie I, 16 July 1931, Arts. 30-47 cum 55

[107] Ibid. Arts. 48-49

regime, reducing overlapping duties, and abolishing *yämar geber* (honey tax) and corvée labor.[108] However, despite these reforms, the system neither fell short of establishing a comprehensive and systematic property tax regime nor did it mobilize revenue adequate to finance public expenditure.[109]

2.3. Colonial Reforms During the Italian Occupation (1935–1941)

The Italian occupation introduced sweeping reforms aimed at dismantling existing indigenous administrative hierarchies, land tenure systems, and fiscal arrangements, particularly in urban centres and areas under strong colonial control.[110] Parallel to the large-scale appropriation of agricultural land, extensive urban planning activities and land confiscation were undertaken to create segregated zones and to build infrastructure for Italian settlers.[111] Most traditional land-based taxes and tributary obligations, especially those associated with the *rist* and *gult* systems, were abolished.[112] An exception was *asrat*, a one-tenth produce tax, which the colonial administration selectively retained in certain regions for administrative convenience rather than policy coherence.[113] Instead of formal taxation, the Italian regime relied heavily

[108] *Supra* note 10, P. 106; Teshome Mulat, Agricultural Taxation in Ethiopia, A Report Prepared for thePolicy Analysis Division FAO Economic and Social Policy Department, 1992; PP. 12-13

[109] Giulia Mascagni, Tax Revenue Mobilisation in Ethiopia, PhD Thesis, University of Sussex November 2013, P. 16

[110] Bahru Zewde, *Supra* note 23, PP. 179–183

[111] Haile M. Larebo, The Myth and Reality of Empire Building: Italian Land Policy and Practice In Ethiopia (1935-1941), PhD Thesis, School of Oriental and African Studies, February 1990, PP. 92-110 & 193; Mulatu Wubneh, Planning for Cities in Crisis: Lessons from Gondar, Ethiopia, The Springer, 2023, PP. 191–214

[112] Siegbert Uhlig (eds), Encyclopaedia Aethiopica, Vol. 1, A-C, 'Asrat' Otto Harrassowitz GmbH & Co. KG, Wiesbaden, 2003.

[113] Ibid

on compulsory labor obligations (corvée) as a substitute form of fiscal extraction.[114] Ethiopians were compelled to provide unpaid labor for colonial infrastructure projects, including road construction, military installations, and public buildings, often justified under the pretext of civic duty and development.[115]

The colonial reform served multiple strategic purposes. It, in particular, enabled the Italian regime to extract labor without instituting a formal tax system and, at the same time, to undermine indigenous property rights and dismantle established local governance institutions.[116] This disruption weakened traditional authority structures and eroded public trust in state institutions, with effects that mirrored broader colonial patterns across Africa. At the same time, however, the occupation introduced elements of a modern fiscal logic by linking taxation more explicitly to the role of the state in land governance and public administration.[117] A notable example is the emergence of municipal taxation, which later became an important revenue source in the post-liberation period.[118] As a result, following liberation in 1941, the government of Emperor Haile Selassie initiated a series of administrative, legal, and fiscal reforms aimed at reasserting sovereignty and recentralizing administrative and fiscal authority, as will be discussed in the following section.

3. Emergence of Modern Property Tax in the Imperial Period (1941–1974)

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[114] Ibid
[115] Ibid
[116] Haile M. Larebo, *Supra* note 111
[117] Ibid
[118] Ibid; See also *Supra* note 109

This period represents a foundational phase in the development of modern property tax law in Ethiopia.[119] As the crown restored, the state undertook administrative, legal, and fiscal reforms to rebuild authority, modernize governance, and strengthen revenue capacity through more standardized, monetized, and legally codified tax systems.[120] These reforms formed part of a broader state-building agenda aimed at centralizing fiscal power, reducing the autonomy of regional elites, and transitioning from fragmented, customary-based systems to statutory forms of taxation.[121] Key institutional developments such as the strengthening of the monetary system and the introduction of the *Negarit Gazeta* as the official legal gazette created a conducive environment for reform and marked a shift from tributary practices to a cash-based tax regime.[122] The establishment of a bicameral parliament and the gradual emergence of a formal separation of powers under the 1955 Revised Constitution facilitated the issuance of modern legal instruments, including proclamations, decrees, and regulations, although ultimate authority remained with the Emperor.[123] Tax laws were enacted to replace feudal obligations with standardized monetary payments, formalized state control over tax collection, and contributed to the professionalization of public administration.[124] The urban sector also

[119] *Supra* note 109, PP. 16-24
[120] László Vértesy and Teketel Bekalo, Public Administration Developments in Ethiopia Under Three Different Regimes, Croatian and Comparative Public Administration, Vol. 22, No. 3, 2022, PP. 403–430 (406-409)
[121] Ibid
[122] See Negarit Gazeta Establishment Proclamation, 1942, Proc. No. 1, Negarit Gazeta, Year 1, No. 1
[123] Assefa Fiseha, Legislative-Executive Relations in the Ethiopian Parliamentary System: Towards Institutional and Legal Reform, In Jaap de Visser, Nico Steytler, Derek Powell and Ebenezer Durojaye, Constitution-Building in Africa, Nomos Verlagsgesellschaft, 2015, PP.239-270
[124] The Revised Constitution of 1955, His Imperial Majesty Haile Selassie I, 4 November, 1955, Art. 103

began to witness the emergence of municipal taxation and property valuation systems, which laid the groundwork for subsequent reforms.[125] However, the legislative process remained largely executive-driven, with tax laws drafted by appointed experts and promulgated under imperial authority, with only limited parliamentary involvement.[126]

Despite these institutional limitations, the period is notable for the introduction of several landmark property tax laws. Land remained central to the reform agenda as the foundation of political authority, economic production, and taxation. Efforts to recentralize state power sought to reduce the influence of regional governors and standardize taxation through a national land tax.[127] In 1941, Emperor Haile Selassie issued a land tax decree that introduced salaried officials, redirected taxes from *gabbars* directly to the state by removing landlords as intermediaries, and abolished traditional dues such as compulsory labor and in-kind contributions.[128] This marked a significant departure from the fragmented feudal practices that had endured for centuries and was further refined through subsequent amendments. The reorganization of the Ministry of Finance and In-House Treasury as the Ministry of Finance in 1943, along with the extension of its presence into the provinces through *Bejirond* offices, helped unify and centralize fiscal policy and land tax collection.[129] These measures laid the institutional foundation for a more modern and centralized fiscal system, with distinct governance and tax arrangements for rural and urban areas. This

[125] Daniel Woldegebriel, Supra Note 31, P. 54;
[126] *Supra* Note 123
[127] Decree No. 1/1942, Art. 9 (71). The law, in addition to installing a secular administration, for the first time refers to the administration of cities. See also Regulations on the Administration of the Church, Negarit Gazeta, Decree No. 2/1942
[128] Daniel Woldegebriel, *Supra* note 31, P. 54
[129] *Supra* note 94

section therefore examines the principal legal and institutional changes of the period, focusing on rural and urban land tax reforms.

3.1. Rural Land Tax Reform and Fiscal Centralization

Rural property tax reforms during this period were undertaken alongside the reorganization of provincial boundaries and administrative restructuring.[130] The 1942 Land Tax Proclamation constituted the first formal land tax law.[131] It introduced a regulatory framework for the assessment and collection of *asrat* and aimed to modernize fiscal administration by dismantling feudal landholding arrangements, replacing in-kind taxation with monetary payments, and consolidating fiscal authority within a centralized state apparatus.[132] The law curtailed the autonomous tax powers of regional elites by establishing uniform tax rules and requiring peasants to pay directly to the central treasury. It set annual land tax rates of 15, 10, and 5 ETB per *gasha* for fertile, semi-fertile, and poor land, respectively.[133] The Ministry of Interior was authorized to issue regulations on land measurement and classification, to be implemented by local administrators.[134] In areas where land had

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[130] *Supra* note 10, P. 108. Teklay Ghizat Administration Decree No. 1/1942, , Negarit Gazeta, Year 1, No. 6 (Hereinafter Decree No. 1/1942). The law standardized territorial administration by dividing the country into 12 provinces (*Taklai Ghizat*) and establishing a uniform three-tier system (*Awraja*, *Woreda*, and *Meslene) that l*ater refined through amendments such as Decree No. 6/1946.

[131] Proclamation to Provide for a Tax on Land, Negarit Gazeta, Proclamation No. 8/1942, Year 1, No. 1; See also Wogene Yirko, History of the Post-War Ethiopian Fiscal System, In Eshetu Chole (eds), Fiscal Decentralization in Ethiopia, Addis Ababa University, 1994, PP. 322 and 339. Haile Selassie`s measure of direct individual taxation without the involvement of the intermediary notables which in a way centralized the taxation system, hit hard the economic base of those regional nobles.

[132] Ibid.

[133] Proclamation No. 8/1942, Art. 3

[134] Ibid, Art. 7

not yet been measured, taxes were assessed based on the 1935 law, but at half the prescribed rate.[135] Taxes were payable annually by 10 December, with legal penalties for non-compliance, including liability for unpaid taxes and associated court costs.[136] Taxpayers aggrieved by land classification or measurement could appeal to the provincial governor, whose decision was final.[137]

In 1944, a new land tax law was adopted, repealing the 1942 law.[138] It retained the two principal land-based taxes (*asrat* and land tax), preserved the tripartite classification of land by fertility, and authorized the Minister of Finance, with approval from the Council of Ministers, to adjust tax rates.[139] The law also grouped provinces according to prevailing political and traditional configurations.[140] The reform aimed to address assessment challenges, reduce collection costs, and simplify the fiscal relationship between the state and landholders by consolidating multiple charges into a unified land tax.[141] This framework was clarified by the Land Tax (Interpretation) Proclamation No. 93/1947, which confirmed that voluntary contributions to religious and educational institutions were unaffected, and by Land Proclamation No. 84/1947, which revised penalties for tax defaults.[142] Subsequent measures, including Land Tax Proclamation No. 106/1949 and Legal

135 Ibid, Art. 7 (1)
136 Ibid, Arts. 3(2) & 4
137 Ibid, Art.7(2)
138 Land Tax Proclamation No. 70/1944, Negarit Gazeta, 4th Year, No. 2;
139 Ibid, Preamble, Art.4 & 5
140 *Supra* note 10, P. 109. The law grouped provinces into three categories. In Wellega, Sidamo, Illubabor, Gemu Gofa, and Kafa, rates were set at 15, 10, and 5 birr per *gasha* for fertile, semi-fertile, and poor land, respectively; the same rates applied in Shoa, Harar, Arussi, and Wollo. In contrast, Gojjam, Tigre, and Beghemder retained the 1927 rates, likely due to resistance rooted in strong attachment to traditional land tenure and taxation systems.
141 Ibid
142 Land Tax Interpretation Proclamation No. 93/1947, Negarit Gazeta, 7th Year, No. 3

Notice No. 257/1962, addressed deficiencies in land measurement and classification.[143] Notably, the 1962 regulation mandated the reclassification of measured land and introduced a five-tier classification system for unmeasured *gebbar* land.[144] It also established a Land Classification Commission and codified detailed procedures for appeals and exemptions, thereby enhancing administrative clarity.[145] A more comprehensive overhaul followed with Proclamation No. 230/1966, which further centralized taxation, reduced the power of local hereditary rulers (*balabbat*), and abolished *siso* and *rist-gult* landholding arrangements.[146] It also required taxpayers to pay directly to the state, eliminating intermediaries in tax collection and retention.[147] Despite these reforms, the regime attracted criticism for increasing the tax burden on peasants, applying flat rates without adequate regard to land size, allowing regional inconsistencies, and favoring certain land tenure arrangements.[148] These shortcomings reinforced existing socioeconomic inequalities and generated discontent, particularly when combined with agricultural income taxation, which applied similar principles and classifications.[149]

This period is known for the introduction of several sector-specific and benefit-based taxes to expand public revenue for social services and

143 Tilahun Dires, *Supra* note 22, P. 3

144 Ibid

145 Ibid

146 A Proclamation to Amend the Land Tax Proclamation of 1944, Proclamation No. 230/1966, Negarit Gazeta, Year 25, No. 9.

147 Ibid

148 John Markakis, Ethiopia: Anatomy of a Traditional Polity, Shama Books, 2006, P. 441.

149 Ibid; *Supra* note 10, P. 109. Land tax is based on ownership (wealth) and is payable regardless of income, whereas income tax is based on returns from the land. However, this distinction is technical and was not widely understood. It, thus, caused resistance in provinces such as Gojjam due to fears of higher tax burdens and land measurement.

complement land tax.[150] The Education Tax Proclamation No. 94/1947 imposed a proportional levy on all landholdings based on their size and fertility, with the aim of financing the expansion of public education.[151] Accordingly, interprovincial variations in tax rates were common and shaped by factors such as the degree of land fertility, the rigor of classification standards, and the extent of land surveying.[152] Originally, the tax applied only to rural land and was collected alongside land and agricultural income taxes. In the 1970s, it was extended to urban areas, imposing a 30% surcharge on urban property and introducing progressive taxation on personal emoluments, which represented an early step toward a more diversified revenue base.[153] A distinctive feature of the education tax was its local character and alignment with the benefit principle because all revenues were earmarked exclusively for educational services within the province where they were collected.[154] A Local Education Board was established to oversee tax collection and disbursement, reporting to the Ministry of Finance.[155] Meanwhile, the Ministry of Education, with the Board's approval, classified schools into elementary, secondary, and higher education

[150] Tilahun Dires, *Supra* note 22, PP. 3-4

[151] Education Tax Proclamation, Negarit Gazeta, Proclamation No. 95/1947, 7th Year, No. 3, Preamble, Art. 3.

[152] Ibid. For example, the provinces of Harar, Shewa, Wollo, and Arsusi paid ETB 15, 12, and 4.50 for fertile, semi-fertile, and non-fertile lands respectively, and ETB 6 for unmeasured lands. In the provinces of Wellega, Sidamo, Illubabur, Gemu Gofa, and Kefa, the tax paid was ETB 13.50, 12, and 4.50 for fertile, semi-fertile, and non-fertile lands respectively, and ETB 6 for unmeasured lands. In Shewa, land was graded as first, second, and third class, and an education tax was paid at the rates of ETB 6, 4.50, and 1.50 respectively. In the provinces of Gojjam, Begemidir, and Tigrai, land was not measured, and different rates were applied based on agricultural income and land tax.

[153] Ibid; See also Additional Education Tax Proclamation No. 279/1970; personal emoluments were taxed at the rate of 0.50 ETB on monthly earnings of 50.00 - 100.00 ETB and at the rate of 2 percent on all monthly earnings in excess of 100.00 ETB.

[154] Proclamation No. 95/1947, Art. 8

[155] Ibid, Arts.2-7 cum Art.9

categories.[156] Revenues were allocated primarily to support provincial elementary schools, with Addis Ababa functioning independently by managing its own revenues and infrastructure.[157]

Similarly, the Health Tax Law of 1959 was introduced to support the expansion of public health services.[158] As with the education tax, health tax rates were determined by land fertility classifications, and funds collected were transferred by the Ministry of Finance to the Ministry of Health for the exclusive purpose of health infrastructure and service development.[159] Consequently, provincial tax rates differed significantly, influenced by critical factors such as soil fertility, land classification criteria, and the degree of land surveying.[160] The tax was later extended to urban areas, where residents were required to pay an additional 30% of their annual municipal tax.[161] In 1954, a cattle tax was introduced to expand the rural tax base and promote fiscal parity between agricultural and pastoral communities.[162] Rates varied by animal type: 0.50 ETB per camel, 0.25 ETB per head of cattle, horse, or mule, 0.10 ETB per donkey, 0.05 ETB per sheep or goat, and 1.00 ETB

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[156] Ibid

[157] Ibid, Art. 10(1).

[158] The Health Tax Decree No. 37/1959, Negarit Gazeta, 18th year, No. 14, Preamble

[159] Decree No. 37/1959, Art.7; See also Health Tax Administration Order No. 22/1960, Negarit Gazeta, 19th Year, No. 11, Art. 2

[160] Ibid, Art. 3. The proclamation set health tax rates for the provinces of Harar, Shewa, Wollo, and Arsusi at ETB 15, 12, and 4.50 for fertile, semi-fertile, and non-fertile lands respectively. Similarly, Wellega, Sidamo (now Sidama), Illubabur (now Iluababora), Gemu Gofa (now Gamogofa), and Kefa paid the same rates. In Shewa Amhara, 'rist' landholders paid health tax based on land grade, from ETB 6 for first and second grade land to ETB 0.60 for third to eighth-grade land annually. In Gojjam, Begemidir, and Tigrai, where land was unmeasured and paid an additional 30% of their expected income taxes annually.

[161] Eshetu Chole, "Towards a History of the Fiscal Policy of the Pre-Revolutionary Ethiopian State: 1941–74," *Journal of Ethiopian Studies*, Vol. 17, 1984, pp. 88–106.

[162] Proclamation to Provide for Cattle Tax, Proclamation No. 142/1954, Negarit Gazeta, 14th Year, No. 1, Preamble.

per pig.[163] A complementary regulation issued the same year outlined procedures for livestock enumeration in each *mikitel woreda* (sub district), to be carried out with the assistance of local chieftains and elders.[164]

3.2. Emergence of Urban Property Tax and Municipal Fiscal Systems

While rural property tax reform dominated the post-1940 fiscal agenda, largely due to limited urbanization and low levels of formal property formation, urban property tax gradually emerged as a significant component of the fiscal system. The fact that early rural reforms not only dismantled tributary structures but also established the legal and institutional basis for extending fiscal authority into urban areas presented an opportunity. As urbanization accelerated, particularly in Addis Ababa and other emerging towns, the state began developing legal, administrative, and revenue instruments tailored to municipal governance.[165] This marked a parallel development in municipal revenue and property tax as a crucial instrument to finance public services, infrastructure, and administrative functions.[166] Although contemplated as early as 1942[167], a key institutional shift occurred in 1945, when municipal governance was reorganized into a two-tier system comprising a policy-making municipal council and an administrative unit headed by a *kentiba* (mayor) or town officer

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163 Ibid, Art. 2

164 Rules Issued Pursuant to the Cattle Tax Proclamation No. 187/1954, Negarit Gazeta, 14th Year, No. 1, Art. 2

165 Tamirat Delelegn, Supra Note 15, PP. 45-50

166 Tilahun Dires, Supra Note 22, PP. 4-6

167 See Teklay Ghizat Administration, Decree No. 1/1942, Year 1, No. 6, Parts 74, 75 and 76

responsible for day-to-day management.[168] Municipalities were granted authority to levy taxes and fees, including those on immovable property, local transport, and various services.[169] However, rate-setting remained subject to central approval and publication, which represents a calibrated balance between local autonomy and central oversight.[170]

Proclamation No. 74/1945 provided the legislative basis for introducing urban property tax measures. In particular, Legal Notice No. 86/1945 standardized the assessment of land and buildings within municipalities.[171] Under this framework, tax rates were calculated by tax officers based on a city's projected revenue needs, then approved by the mayor, endorsed by the municipal council, and publicly posted each September.[172] Property owners were notified in writing if their property was assessed for the first time or if its value increased by more than 5 percent compared to the previous year.[173] Taxpayers were granted the right to appeal within 25 days, triggering a mandatory hearing by the municipal council within 30 days, which could confirm, revise, or annul the assessment.[174] Legal representation was permitted, and exemptions applied to government buildings, religious institutions, and recognized charitable premises.[175]

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168 Proclamation to Provide for the Control of Municipalities and Townships, Proclamation No.74/1945, Negarit Gazeta, 4th year, No. 7, Article 11. The law, though not a tax law per se, recognized certain urban centers such as Addis Ababa, Harar, Gondar, Jimma, Dessie, and Dire Dawa as Municipalities, and other towns as Townships, granting them revenue-raising powers.
169 Ibid
170 Ibid, Article 11(v)
171 Municipalities General Rate Assessment Rules Legal Notice 86/1945, Art. 4
172 Legal Notice 86/1945, Arts. 7 & 11.
173 Ibid, Arts. 9 & 10.
174 Ibid
175 Ibid, Arts. 4 & 6

On this basis, additional legal instruments introduced more specific urban revenue and property tax mechanisms. For example, the Municipal General Rate Order for Addis Ababa established a detailed and location-sensitive system of property classification and tax.[176] The city was divided into three area classes, each further subdivided into three categories based on proximity to main roads.[177] Within each class, properties were categorized by accessibility: first-category plots had direct access to main roads, second-category plots were within 150 meters, and third-category plots were located beyond that distance.[178] Tax rates were then assessed based on both location and plot size, declining progressively across area classes and categories.[179] This system integrated spatial differentiation with plot size in determining tax obligations and reflects a geographically sensitive approach to property taxation based on land value, accessibility, and development potential, and marking an early shift toward greater equity and fiscal rationality in urban tax.[180]

In 1948, Amendment Legal Notice No. 118/1948 revised key elements of the existing framework. It introduced a 2 percent tax on the rental

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[176] Addis Ababa Municipal General Rate Order Legal Notice 87/1945

[177] Ibid, Schedule I; Key commercial and residential zones such as Piazza, Merkato, Kolfe, Arat Kilo, and Sidist Kilo were designated as first-class areas.

[178] Ibid

[179] Ibid In first-class areas, first-category owners paid ETB 2 annually for plots up to 50 m², ETB 4 for plots between 50 and 100 m², and ETB 4 for each additional 100 m². Residents in the second and third categories paid ETB 3 for plots up to 500 m², ETB 5 for plots between 500 and 1000 m², and ETB 5 per additional 1000 m². In second-class areas, first-category residents paid ETB 2 for plots up to 500 m², ETB 3 for plots between 500 and 1000 m², and ETB 3 per additional 1000 m², while those in the second and third categories paid ETB 1, ETB 2, and ETB 2, respectively, for the same size ranges. In third-class areas, first-category owners paid ETB 1 for plots up to 500 m², ETB 2 for plots between 500 and 1000 m², and ETB 2 per additional 1000 m², whereas second- and third-category owners paid as little as ETB 0.25, ETB 0.50, and ETB 0.50, respectively. Overall, tax liabilities declined from first- to third-class areas, with the highest rates applied to the most accessible locations

[180] *Supra* note 109, PP. 16-24

value of buildings used for commercial purposes, applicable where monthly rent exceeded ETB 10, and assigned assessment responsibilities to the Addis Ababa Municipal Taxes Assessment Committee, which strengthened institutional oversight.[181] A more substantive reform followed with the 1964 Land and Building Tax Regulation, which repealed the 1948 amendment and introduced a more structured system, where land taxes were based on a formal grading scheme and building taxes continued to rely on rental value and property use.[182] Land was classified into three principal zones, with further sub-grading that enabled more differentiated and market-sensitive assessments.[183] The inclusion of exemptions for public-purpose properties such as government offices, schools, hospitals, and religious institutions represents an emerging concern for equity within the tax system.[184]

Further institutional consolidation occurred in 1968 with the adoption of the Addis Ababa Land Tax Classification Regulation, which was issued under Article 6 of Legal Notice No. 301/1964. The new law formally established land classification standards and authorized periodic reassessment by the Land and Building Assessment Department.[185] This marked a shift toward greater administrative rationality and legal formalization in urban tax. The model subsequently diffused to other municipalities such as Nazareth (now Adama), which introduced a municipal tax system closely modeled on that of Addis Ababa.[186]

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[181] The Amendment Legal Notice 118/1948, Art. 2

[182] Addis Ababa Land and Building Tax Regulation Legal Notice No. 301/1964, Arts. 3(3), 6 & 8

[183] Ibid, Schedule I

[184] Ibid, Art. 12

[185] Addis Ababa Land Tax (classification) Regulations, Legal Notice No. 341/1968, *Negarit Gazeta,* 27th Year, No. 21, Arts. 3& 4

[186] Nazareth Municipality Rates, 1968, Legal Notice No. 339, issued pursuant to

However, in many other urban centers, municipal tax regulations were not locally tailored but were instead established at the provincial level. Provinces such as Arussi, Wellega, Sidamo, Shoa, and Illubabor issued their own municipal tax schedules through the Ministry of the Interior.[187] These regulations ensured administrative uniformity and consistent tax collection across towns and limited rate differentiation for major centers allowed modest sensitivity to local conditions.[188] This approach reflects a pragmatic balance between standardization and local fiscal needs.

3.3. Reform Impacts and Structural Constraints

As noted above, post-1940s property tax reforms marked a clear shift from a tributary logic of obligation toward a more rationalized and statutory conception of taxation in both rural and urban Ethiopia. During this period, property tax laws showed progress in legal clarity and administrative organization. The introduction of percentage-based rates, land classification frameworks, and assessment methods based on land grades and rental values reflected increasing sophistication in policy design.[189] The growing involvement of municipalities and provincial administrations in implementation also signaled a gradual recognition of sub-national contexts, even though legislative authority remained

Municipalities Proclamation No. 74/1945

[187] Arussi Teklay Gizat Municipalities Rates and Fees Regulations, Legal Notice No. 369/1969, Negarit Gazeta, 28th year, No. 20; Rates, Dues and Fees Regulations for the Municipalities of Welega Teklay Gizat, Legal Notice No. 372/1969, Negarit Gazeta, 28th year, No. 27; Sidamo Teklay Gizat Municipalities Rates and Fees Regulations, Legal Notice No. 378/1969, Negarit Gazeta, 29th year, No. 5; Rates, Dues and Fees Regulations for the Municipalities of Shoa Teklay Gizat, Legal Notice No. 385/1970, Negarit Gazeta, 29th year, No. 21; Rates, Dues and Fees Regulations for the Municipalities of Illubabor Teklay Gizat, Legal Notice No. 386/1970, Negarit Gazeta, 29th year, No. 24.

[188] *Supra* note 10, P. 146

[189] Tilahun Dires, *Supra* note 22, PP. 2-6

centralized.[190] Despite these advances, the legal framework remained underdeveloped. The laws were generally brief and accessible but lacked detailed provisions on taxpayer rights, assessment procedures, enforcement mechanisms, and appeals.[191] Their scope was largely confined to rural areas and small urban centers, while urban property taxation remained limited to a few major cities, particularly Addis Ababa. This imbalance constrained the broader institutionalization of urban fiscal systems. Moreover, the centralized and executive-driven nature of tax legislation limited responsiveness to local conditions and weakened representation of regional interests.[192]

Property taxation during this period extended beyond land and buildings to include assets such as livestock and vehicles, which shows an effort to broaden the tax base. More broadly, it formed part of a wider state-building agenda linking fiscal reform with administrative restructuring, land tenure reform, and economic modernization.[193] In revenue terms, these efforts initially achieved notable success and demonstrated the potential of property taxation as a sustainable source of public finance. For example, between 1950 and 1959, property tax contributed approximately 18.1% of total tax revenue.[194] However, these gains proved difficult to sustain. For example, during the 1960s, the share of property tax declined to about 10.01% of total revenue.[195] This downturn was driven by political tensions over land reform and weakened administrative capacity, and a policy shift toward trade and

[190] Tamirat Delelegn, *Supra* note 15, PP. 45-50
[191] *Supra* note 10, PP. 108-110 & 145-149
[192] Ibid
[193] Ibid
[194] Wogene Yirko, *Supra* note 131, P. 322
[195] Ibid

income taxes.[196] At the same time, growing dissatisfaction with inequities in landholding and taxation, particularly among rural populations, undermined the legitimacy of the system. These dynamics exposed the structural limits of the reform agenda and contributed to the broader political crisis that culminated in the 1974 revolution, after which many of the earlier gains in property taxation were effectively reversed.

4. Property Taxation under the Derg Regime (1974–1991): Revolutionary and Socialist Restructuring

The 1974 revolution marked a decisive rupture in the fiscal and politico economic history of Ethiopia and abruptly reversed the reform path initiated in the 1940s. Following the overthrow of Emperor Haile Selassie and the dissolution of Parliament, legislative authority shifted to the Derg, a military junta operating under a Marxist–Leninist framework.[197] Lawmaking became highly centralized and ideologically driven. While primary legislation was issued by the Provisional Military Administrative Council (PMAC), and later by the National Shengo, subsidiary instruments were delegated to the Council of Ministers and sectoral ministries.[198] The regime restructured the state and economy along socialist lines, most notably by abolishing private ownership of land and major means of production, including industries, commercial enterprises, and banks.[199] Landmark proclamations nationalized all rural and urban land, including extra houses, effectively dismantling private

[196] Ibid, P. 323
[197] *Supra* note 120
[198] Ibid; See also *Supra* note 123
[199] Fasil Nahum, Socialist Ethiopia's Achievements as Reflected in its Basic Laws, Journal of Ethiopian Law, Vol. 11, 1980

real estate markets.[200] This transformation redefined property relations and shifted the fiscal base away from land taxation toward state-controlled rents and production-based levies.

Administratively, the Derg retained elements of the imperial provincial structure but replaced local governance with Peasant Associations (PAs) in rural areas and Kebele Urban Dwellers' Associations (KUDAs) in urban centers.[201] These entities functioned as grassroots extensions of central authority, responsible for implementing land reform and facilitating revenue collection. In line with its ideological stance, which viewed property taxation as a feature of capitalist exploitation, the regime repealed key imperial-era property tax laws, including the Land Tax Proclamation No. 70/1944.[202] This move dismantled the institutional and legal foundations of property taxation and signaled a fundamental shift in fiscal philosophy.[203] Property-based taxation was delegitimized and replaced by collectivist mechanisms such as land-use fees, state rents, and revenues from public enterprises. In effect, the Derg rejected the earlier, albeit evolving, framework of property taxation, both rural and urban, and substituted it with a system rooted in state ownership, centralized control, and redistribution.

4.1. Abolition of Rural Land Tax and the Shift to Land Use Fees

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[200] Public Ownership of Rural Lands Proclamation No. 31/1975. *Negarit Gazeta.* Year 34, No. 26. (Hereinafter cited as Proclamation No. 31/1975), Art. 3; Government Ownership of Urban Land and Extra Houses, Proclamation No. 47/1975, *Negarit Gazeta,* Year 34, No. 41 (Hereinafter cited as Proclamation No. 47/1975), Arts. 3 & 13

[201] Proclamation No. 31/1975, Arts. 8-11; Proclamation No. 47/1975, Arts. 22-30; See also Peasant Associations Organization and Consolidation Proclamation No. 71/1975, Negarit Gazata, 35th Year No. 15; Urban Dwellers' Associations Consolidation and Municipalities Proclamation No. 104/1975, Negarit Gazeta 36th Year No. 5

[202] Proclamation No. 31/1975, Art. 32; Proclamation No. 47/1975, Art. 42

[203] *Supra* note 199

The Derg's rural property tax reform was a continuation of its radical land reform, which abolished private rural land ownership and nationalized all land as the collective property of the Ethiopian people.[204] The reform aimed to eliminate feudalism by redistributing up to 10 hectares per family, enforced through Peasant Associations (PAs), while prohibiting land sales, mortgages, and leasing.[205] This fundamentally altered the foundations of the rural land tax system developed since the 1940s. Accordingly, the Rural Land Use Fee and Agricultural Activities Income Tax Proclamation No. 77/1976 was adopted to repeal earlier land tax laws and the agricultural income tax components of previous income tax legislation and require farmers to pay land use fees and income tax on agricultural income.[206] In essence, land tax was replaced by land use fees (or rents), while rural housing remained outside the tax base. The reform marked a decisive departure from earlier property tax regimes by combining non-market-based land use fees with agricultural income taxation within a unified legal and administrative framework. This model, in many respects, persists today, as the revenue is decentralized to regional states and governed under regional laws.[207]

Under Proclamation No. 77/1976, the collection of land use fees was organized through a structured system of registration and administration. Agricultural communes, peasant associations, cooperatives, and authorized individuals were required to submit annual lists of farmers to the nearest tax office by 30 Tikimt, while government agricultural

[204] Proclamation No. 31/1975, Preamble, Arts. 3-6
[205] Ibid
[206] Rural Land Use Fee and Agricultural Activities Income Tax Proclamation No. 77/1976, Negarit Gazeta, 35th Year, No. 19, Arts. 3, 4 & 12
[207] *Supra* note 10, PP. 112-113

organizations declared their landholdings in hectares.[208] The tax office then registered farmers and holdings separately, forming the basis for assessment.[209] Fees were fixed and uniform: Birr 5 for members of agricultural communes, Birr 10 for non-members, and Birr 2 per hectare for government agricultural organizations.[210] Tax authorities were empowered to verify landholdings without a court order to ensure compliance.[211] Collection took place annually between 1 Tahsas and 30 Miazia. The tax office directly collected fees from government farms and higher-income farmers (those with annual agricultural income exceeding Birr 1,200), while local tax collectors handled payments from lower-income farmers and commune members.[212] These collectors were required to remit revenues, along with payer lists and receipts, to the tax office by 30 Miazia, ensuring administrative control and accountability within a centralized system.[213] The agricultural income tax followed a distinct procedure, although it is not the focus of this discussion.[214] One of the innovative provision was that taxpayers were allowed to deduct all 'necessary expenses' including an allowance for depreciation of capital assets used in agricultural activities.[215] For both forms of government revenue, the law provided procedural rules, including appeal mechanisms, penalties, and delegated authority to issue further regulations, all of which remained centralized within government

[208] Proclamation No. 77/1976, Arts. 5-6

[209] Ibid, Art. 7

[210] Ibid, Art. 8

[211] Ibid, Art. 9

[212] Ibid, Art. 10

[213] Ibid, Art. 11

[214] Ibid, Arts. 12-28 was imposed on all farm income, requiring annual self-declaration, classification into income brackets, and payment within specified periods, with assessment based on estimated or actual output. The system combined simplified flat taxes for low-income farmers with progressive rates for higher incomes, enforced through centralized oversight, record-keeping, and appeal procedures

[215] Ibid, Art. 24

institutions.[216]

The introduction of Proclamation No. 77/1976 marked a discontinuity in the rural property tax system and fundamentally redefined the legal and fiscal basis of rural land revenue collection. This shift from land tax toward fees and rents has made direct comparison with earlier property-based systems difficult in the literature. Nonetheless, examining this framework remains essential for analytical continuity and for understanding how fiscal instruments adapted to broader ideological and institutional transformations.[217] Its legacy is enduring, as many regional states still retain legal structures that closely reflect the design of land use fees and agricultural income taxation. These measures advanced the Derg's objectives of centralizing revenue administration, promoting collectivization, and reinforcing state ownership of land.[218] Amendment Proclamation No. 152/1978 further strengthened the system by increasing both land use fees and agricultural income tax rates.[219] Land use fees were fixed based on land size and fertility, with preferential rates for cooperative members, while agricultural income tax was progressive, based on earnings.[220] Overall, these socialist instruments reshaped rural fiscal relations by combining revenue mobilization with egalitarian and collectivist goals, supported by administrative and institutional restructuring.[221] They marked a decisive departure from property tax and left a durable institutional imprint that persists today.

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[216] Ibid, Arts. 29-45

[217] *Supra* note 10, PP. 112-113

[218] Teshome Mulat, Tax Financing of Government Agricultural Expenditure in Ethiopia, Ethiopian Journal of Economics, Vol. I, No. 1, 1992

[219] Rural Land Use Fee and Agricultural Activities Income Tax Amendment Proclamation No. 152/1978, Negarit Gazeta, 39th Year, No. 2

[220] Ibid

[221] Teshome Mulat, *Supra* note 108, PP. 20-22

4.2. Urban Land Rent and House Tax

Like its rural counterpart, the Derg nationalized all urban land and "extra" houses without compensation and transferred their management to local community structures, later organized as Urban Dwellers' Associations (UDAs).[222] This reform replaced private ownership with a state-controlled tenure system aimed at eliminating landlordism, redistributing housing, and enabling planned urban development.[223] This transformation necessitated a corresponding shift in the urban land and property revenue system. Accordingly, the Urban Land Rent and Urban Houses Tax Proclamation No. 80/1976 was enacted to impose land rent (permit fees) and retain taxation on houses.[224] It aligned fiscal policy with the socialist legal order and, by abolishing earlier urban land taxes, marked a decisive break from the post-1945 framework. The model remained in force until recently under regional municipal revenue regulations and urban land laws. Although framed as a mechanism for mobilizing revenue to support urban infrastructure and services, the system remained highly centralized.[225] Municipalities and town administrations were not permitted to collect land rent or house taxes without regulations issued by the Ministry of Interior in consultation with the Ministry of Public Works and Housing.[226] In Addis Ababa, this authority was vested in the Awraja Court, acting in coordination with the Ministry.[227] Despite the ostensibly local nature of these revenues

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222 Government Ownership of Urban Land and Extra Houses Proclamation No. 47/1975, Negarit Gazeta, Year 34, No. 41. Preamble, Arts. 3 & 11

223 Ibid

224 Urban Land and Urban Houses Tax Proclamation No. 80/1976, Negarit Gazeta, 35th Year, No. 25, Art. 3

225 Ibid, Preamble

226 Ibid, Art. 17 cum Art. 19.

227 Ibid, Art. 17 cum Art. 19.

and the role of UDAs, only 5% of collections was allocated to municipalities, thereby significantly constraining local fiscal autonomy.[228]

In terms of design, Proclamation No. 80/1976 introduced a structured and differentiated system of urban land rent and house taxation. Urban land was classified into three grades based on location and size, forming the basis for a tiered rent assessment.[229] Legal possessors were required to pay annual rent (due by Yekatit 30), calculated according to land grade, size, and designated use (residential or commercial).[230] For residential plots up to 500 square meters, rates were set at 0.06 ETB, 0.04 ETB, and 0.02 ETB per square meter for Grade I, II, and III land, respectively, with higher rates applied to larger plots and intermediate bands for mid-sized holdings.[231] Commercial land followed a similar structure, albeit with adjusted rates, capped at 0.06 ETB per square meter for Grade I land.[232] In contrast, the urban house tax was based on assessed rental value rather than land characteristics.[233] Properties with annual rental values exceeding 100 ETB were assessed by the Ministry of Public Works and Housing or its delegates, while lower-value properties were assessed with the involvement of urban dwellers' cooperatives.[234] The tax was progressive, ranging from 1% for properties valued up to 600 ETB to 4.5% for those exceeding 6,000

[228] Ibid, Art. 13 the Ministry of Public Works and Housing was required to allocate 5% of rent and tax revenues to Municipalities or Town Administrations.
[229] Ibid, art. 4 and 6 (1)
[230] Ibid, Art. 5 1 (a), and 8 cum the Schedule1 & 2
[231] Ibid, Schedule 1. The rental rates were set at 0.16 ETB per square meter for Grade 1 land, 0.14 ETB for Grade 2, and 0.12 ETB for Grade 3. Progressive intermediate rates were applied to land sizes ranging from 501 to 1,000, 1,001 to 1,500, and 1,501 to 2,000 square meters.
[232] Ibid, Schedule 2. Rent rates were set at up to 0.06 ETB/sq. m for Grade 1, up to 0.04 ETB/sq. m for Grade 2, and up to 0.02 ETB/sq. m for Grade 3.
[233] Ibid, Art. 6 (1&2)
[234] Ibid, Art. 6

ETB.[235] These design features reflect a dual system combining administratively determined land rent with value-based taxation on buildings, aligned with the broader socialist framework of state land ownership. Exemptions included public spaces, religious sites, non-profit institutions, government offices funded by the central treasury, and dwellings with an annual rental value below 300 ETB.[236] However, the law remained vague on the treatment of diplomatic and consular properties, merely noting that these would be addressed through future legislation.

Once assessments were completed, they were forwarded to the municipality or, in its absence, the town administration, which was responsible for notifying taxpayers through registered mail or personal delivery.[237] Where direct notification was not possible, notice could be served by posting it on the taxpayer's property or through publication in official newspapers, with the cost borne by the taxpayer.[238] This stepwise procedure aimed to ensure due process while minimizing disputes over insufficient notice. To address grievances, the law established a Tax Appeals Committee and defined a structured appeal process.[239] Taxpayers could challenge assessments or denials of exemptions within 30 days before the Committee and, if dissatisfied, appeal to the Awraja Court, provided the assessed tax had been paid in full. The municipality or town administration retained a corresponding right of appeal under the same conditions. Compliance was enforced

[235] Ibid, Schedule 3
[236] Ibid, Art. 14 and 15
[237] Ibid, Art. 6 (5) and 7
[238] Ibid, Art. 8
[239] Ibid, Art. 9-12

through both financial and criminal sanctions.[240] A monthly penalty of 5% was imposed on unpaid rent or taxes, capped at 50%, and violations of the proclamation or its regulations constituted offences under the then Penal Code.[241] These enforcement measures, combined with available exemptions, reflect an attempt to balance deterrence with equity within the tax system.

The relative comprehensiveness and administrative detail of Proclamation No. 80/1976 help explain its long-standing application, reinforced by subsequent amendments and implementing regulations, particularly in Addis Ababa. Pursuant to Article 19(2), Addis Ababa adopted its own Land Rent and House Tax Regulation, repealing earlier instruments such as Legal Notice No. 301/1964 and Legal Notice No. 341/1968.[242] The regulation retained the three-grade classification system, applied differential rent rates, and established procedures for determining house rents and tax liabilities, largely mirroring the structure of Proclamation No. 80/1976.[243] Further refinement occurred in 1979 through two key legal measures. First, Proclamation No. 161/1979 amended the original framework by introducing a more differentiated approach to land rent assessment.[244] While maintaining fixed rates per square meter, it required consideration of three factors: urban land grading (with sub-classifications), land use (residential or commercial), and plot size.[245] This replaced the earlier uniform schedule with a more context-sensitive system aligned with land characteristics

[240] Ibid, Art. 14 and 15
[241] Ibid, Art. 16 & 18
[242] Ibid, Addis Ababa Land Use Rent and House Tax, Legal Notice No. 36/1976, Negarit Gazeta, 35th year, No. 25
[243] Ibid
[244] Urban Land Rent and Urban Houses Tax (Amendment) Proclamation No. 161/1979, Negarit Gazeta, 38th Year, No. 9
[245] Ibid

and intended use. Second, a regulation issued by the Ministry of Urban Development and Housing, pursuant to Article 19(1) of the Proclamation, introduced additional land-use categories such as agricultural, commercial, and service plots, and delegated classification authority to relevant administrative bodies.[246] It also categorized urban centers outside Addis Ababa into four groups based on size, with corresponding rent and house tax schedules.[247] Finally, it designated municipalities or urban administrative centers as official points of payment, which reinforces local administrative roles within an otherwise centralized fiscal framework.

4.3. Reform Implications and Revenue Performances

The coming to power of the socialist military regime marked a decisive departure from the post-1940s modern property tax reforms. While some elements of the imperial framework persisted, they were fundamentally reshaped to reflect a socialist model prioritizing state ownership and centralized control over local autonomy and the market economy. The above discussion also shows that, despite improvements compared to previous periods, tax laws remained generally brief and lacked the technical and administrative sophistication required for consistent implementation. In fact, Proclamation No. 80/1976 and its amendments stand out as relatively comprehensive and durable exceptions that remained in use until recently. However, at its core, the period represented a significant setback in the development of property taxation and local financing. In particular, the abolition of private ownership, tenure insecurity, and the reduction of protections for

[246] Provincial Urban Land Rent and Urban House Tax Regulations, Legal Notice No. 64/1979, Negarit Gazeta, 38th Year, No. 9

[247] Ibid, Art. 4

property rights dismantled the legal and institutional foundations necessary for a functioning property revenue and value capture system.[248] In rural areas, property taxation effectively disappeared due to the absence of private landholding and the exclusion of housing from the tax base.[249] In urban areas, although housing taxes were formally retained, the absence of market-based property relations and the constraints of a command economy rendered them largely ineffective and fiscally insignificant.[250]

Normative restrictions and policy reversals are also reflected in actual revenue performance. For example, property-related taxes accounted for only 3.04% of total tax revenue between 1970 and 1979, declining further to 2.08% in the 1980s.[251] The downturn stemmed from interrelated factors such as the abolition of private ownership undermined valuation and compliance, centralized planning deprioritized local revenue generation, and weak decentralization limited administrative capacity.[252] Empirical studies also indicate that, from the late 1970s onward, the overall growth of agricultural tax revenue declined from 9.32% (1965–1975) to 4.44% (1976–1991).[253] This declining performance indicates both a shift in the tax structure and broader economic stress under the command economy.[254] Local tax offices and land administration institutions, particularly PAs and UDAs, functioned primarily as extensions of central authority and lacked the mandate, expertise, and accountability required for effective tax

248 Seid Hussen, *Supra* note 16
249 *Supra* note 61
250 Ibid
251 Wogene Yirko, *Supra* note 131
252 Ibid
253 *Supra* note 218
254 Ibid

administration.[255] Consequently, local governments lost fiscal autonomy, and the institutional infrastructure for property taxation deteriorated. This legacy of centralization and weakened local capacity continues to shape Ethiopia's property tax system and governance framework.

5. Property Tax in the Post-1991 Period: From Continued Decline to Reform

Following the fall of the Derg in 1991, the EPRDF-led government pledged to establish a decentralized system of governance and a market-oriented economy.[256] In practice, however, it retained core features of prior land policy and local governance.[257] The Transitional Charter[258], subsequent laws[259], and the FDRE Constitution entrenched a dual federal structure that allocates expenditure responsibilities[260] and revenue powers[261] only between the federal and regional

255 Ibid
256 See also John M. Cohen, Transition toward Democracy and Governance in Post Mengistu Ethiopia, Harvard Institute for International Development, Development Discussion Paper No. 493, June 1994
257 Ibid
258 Transitional Period Charter of Ethiopia No. 1/1991, Negarit Gazeta, 50th Year, No. 1;
259 A Proclamation to Provide for the Establishment of National/Regional-Self Governments Proclamation No. 7/1992, Negarit Gazeta, 51st Year, No. 2; A Proclamation to Define the Sharing of Revenue between the Central Government and the National/Regional Self-Governments, Proclamation No. 33/1992, Negarit Gazeta, 22nd Year, No. 7; A Proclamation to Define the Powers and Duties of the Central and Regional Executive Organs of the Transitional Government of Ethiopia, Proclamation No. 41/1993, Negarit Gazeta, 52nd Year, No. 26; A Proclamation To Amend the definition of powers and duties of the central and regional executive organs of the transitional government of Ethiopia Proclamation No. 73/1993, Negarit Gazeta, 53rd Year No. 4.
260 The Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, Federal Negarit Gazeta, 1st Year No. 1, Arts. 51 and 52 (Hereinafter FDRE Constitution)
261 Ibid, Arts. 96, 97, 98 and 99. Revenue powers are classified as federal, state, concurrent,

governments.[262] This has left the status and institutional design of local governments to regional discretion.[263] Regional states accordingly re-established rural and urban local governments and defined their powers, functions, and revenue sources through city proclamations and municipal revenue regulations.[264] This process did not yield robust local governments capable of effective governance or revenue mobilization.[265] At the same time, land remained constitutionally vested in the state and the peoples and government a sole custodian.[266] The federal government legislates on land use and conservation, while regional states administer land and levy fees on usufruct rights.[267] Nonetheless, access to land, tenure security, land markets and revenues, and the quality of land administration remain contested.[268] The evolving

or undesignated. Although the titles refer to the "power of taxation," they do not deal strictly with taxes alone but also include non-tax revenues such as fees, charges, rents, and other sources.

[262] Anwar Shah, A Comparative Institutional Framework for Responsive, Responsible, and Accountable Local Governance, In Anwar Shah (eds), Local Government in industrial countries, Public Sector Governance and Accountability Series, World Bank, 2006, PP. 27-35. This approach resembles classical federations such as the United States, Australia, and Canada, where powers are primarily allocated between federal and state governments. By contrast, modern constitutions such as those of Germany, Switzerland, India, Brazil, and Nigeria establish three tiers of government and assign taxation powers, including property taxes, service charges, and fees, to local governments. The FDRE Constitution, however, restrict even intergovernmental transfers and revenue powers directives within these two tiers. See generally, FDRE Constitution, Arts. 94 &100.

[263] FDRE Constitution, Art. 50(4)

[264] Zemelak Ayitenew, Local Government in Ethiopia: Design Problems and their Implications, A Discussion Paper prepared for a workshop Good Governance Africa-Eastern Africa organized under the theme "The Burden of Victory", 10 February 2022.

[265] Ibid

[266] FDRE Constitution, Arts. 40 (3) &89(5)

[267] FDRE Constitution, Arts. 51(5), 52(2)(d)) &97 (2)

[268] Brightman Gebremichael, Heartrending or Uplifting: The Ethiopian Urban Land Tenure System Reform and Its Reflection on Tenure Security of Permit Holders, Journal of Developing Societies, Volume 33, Issue 3, 2017; Seid Hussen, Supra Note 16. This contrasts with other post-transition economies, where property tax reforms sought to mobilize revenue, restructure land ownership, and incentivize efficient land use through market-based valuation and cadastral improvements.

rural-centered development strategy and ethnically based federal system have further complicated local governance and land administration, particularly in urban areas.[269] These structural constraints have limited the development of land value capture instruments and hindered efforts to reverse the decline in property tax law and administration that began under the Derg.[270]

Regional constitutions[271] designate land-use fees and agricultural income tax as the primary revenue sources of woredas (RLGs), with state councils[272] enacting enabling laws for their assessment and collection. Although regional constitutions are largely silent on ULGs, regional states have established municipalities through city proclamations[273] that define their powers, functions, and revenue bases; the charters[274] of Addis Ababa and Dire Dawa perform a similar role in their jurisdictions. Municipal revenues, typically classified under account codes (1701–1799), include municipal taxes, land-related rents,

[269] Samson Kassahun and Alok Tiwari, Urban Development in Ethiopia: Challenges and Policy Responses The IUP Journal of Governance and Public Policy, Vol. 7, No. 1, 2012, pp. 59-65; Zemelak Ayitenew, Supra Note 264

[270] Ibid; See also *Supre* note 4

[271] See for example, The Revised Constitution of the Amhara National Regional State Approval Proclamation No. 59/2001, Zikre Hig, 7th Year No. 2, Art. 86 (2) (f); The Revised Oromia Region Constitution, Proclamation No 46/2002, Art. 79 (2) (h).

[272] Amhara National Regional State, Rural Land Use Payment and Agricultural Activities Income Tax Proclamation No. 161/2008; Oromia National Regional State Revised rural land use payment and agricultural income tax proclamation No. 131/2007

[273] See for example, The Revised Proclamation Issued to Provide for the Re-Establishment, Organization and Determination of their Powers and Duties of Urban Centers in the Amhara National Regional State, Proclamation No.245/2017, Zikre Hig, 21st Year No. 25, Arts. 11 (2) (j) cum 72; The Revised Oromia Regional State Cities Establishment Proclamation No.195/2015, Megeleta Oromia, Year 24, No. 4, Art. 11 (1) (d) cum 52;

[274] Addis Ababa City Government Revised Charter Proclamation No. 361/2003, Federal Negarit Gazeta, 9th year, No. 86, Art. 52; Dire Dawa Administration Charter Proclamation No. 416/2004, Federal Negarit Gazeta, 10th year, No. 60, Art. 43;

service charges, fees, and capital receipts.[275] These are governed mainly by regional regulations and outdated laws from earlier regimes. However, neither these outdated frameworks nor newer regional laws have enabled the effective introduction of land-based financing instruments, including modern property tax.[276] For example, urban land lease revenues on newly transferred land and permit (land rent) fees on existing holdings do not capture underlying land values or meet revenue expectations.[277]

The absence of structured land-based revenue sources and value-capture instruments is paradoxical in a rapidly urbanizing context and has, in effect, constrained the capacity of ULGs to finance growing demand for services and infrastructure.[278] A central weakness is the underutilization of land-based instruments.[279] House taxes, which are the only property tax in the true sense, lack a sound legal and administrative foundation and often still operate under the outdated Proclamation No. 80/1976.[280] Lease payments and permit fees are similarly constrained by legal gaps, weak cadastral and valuation systems, poor documentation, and limited technical and administrative capacity for enforcement and compliance.[281] Systemic deficiencies in land governance such as

[275] Ibid; See also for example, See also Oromia Urban Development and Housing Bureau, Model Regulations on Taxes on Revenue Sources of Oromia Urban Centers, June 2020; Amhara National Regional State Revised Municipal Revenue Tariff Administrative Council Regulation No. 220/2024.

[276] See for example, Derarsa Shambel, Examining Real Property Taxation System In Oromia Regional State Urban Centers: The Law and Practice, LL.M Thesis, Jimma University School of Law, January, 2023; Yibeltal Mequanent, Examining Valuation Practices and Challenges Facing Property Tax Collection in Amhara National Regional State: In the Case of Bahir Dar City Administration, MSc Thesis, Bahir Dar University, June 2020

[277] Ibid

[278] Seid Hussen, *Supra* note 16; *Supra* note 4

[279] Ibid

[280] Ibid

[281] Ibid

insecure tenure, the separation of land and building ownership, and widespread informality further depress revenue performance.[282] These conditions impede property identification, registration, and valuation, as well as billing, collection, and enforcement. Reform has been limited. Fiscal policy has historically prioritized federal and regional revenues, leaving local revenue systems underdeveloped.[283]

Against this backdrop, a nationwide municipal revenue and property tax reform was initiated in 2011.[284] The property tax component, however, faced prolonged delays due to legal, institutional, and political constraints.[285] Constitutionally, disputes over the status of local governments and the allocation of property tax powers persisted until resolved by a joint resolution of the two Houses in 2023, which defined property tax as a regional tax, allocated lawmaking authority between federal and regional governments, and assigned collection and use to ULGs.[286] Institutionally, public ownership of land, weak cadastral systems, incomplete property data, and limited technical capacity within ULGs constrained effective implementation.[287] Politically, property tax is a sensitive direct tax that is visible, immobile, and payable annually regardless of income, posing challenges for low-income households and businesses.[288] These factors help explain why the reform remained

[282] Ibid

[283] Alemayehu Negash Soressa and Bekalu Tilahun Gebreslus Property Taxation in North-east Africa: Case Study of Ethiopia, Lincoln Institute of Land Policy Working Paper WP09NEA1, 2009

[284] Tom Goodfellow, *Supra* note 4

[285] Ibid

[286] Joint Resolution of the House of Federation (HoF) and the House of Peoples' Representatives (HoPR) of the FDRE, January 11, 2023 (hereinafter the Joint Resolution).

[287] FDRE Ministry of Finance, *National Medium-Term Revenue Strategy (NMTRS) (2024/25–2027/28)*, Addis Ababa, August 2024.

[288] Ibid

centralized and largely non-transparent at the federal level until its public release in 2019.[289]

The reform was predominantly federal-driven, led largely by the MoUI's Property Tax Project Office with the support of donor organizations and experts.[290] Consultation with regional governments, municipalities, taxpayers, and other stakeholders was limited.[291] This approach risks misalignment with local conditions and raises concerns about legitimacy, local ownership, and long-term viability. In many respects, it reproduces a historical pattern of top-down fiscal legislation, with limited scope for negotiation, adaptation, or local learning. Centralization is further reflected in the federal preparation of a model proclamation for regional states, which may erode subnational autonomy under the guise of harmonization.[292] Amid delays, Addis Ababa and regions such as Amhara and Oromia amended the "roof and wall tax" in 2023–2024 as interim revenue measures.[293] These reforms, particularly in Addis Ababa, provoked strong resistance due to rate changes, revised valuation methods, and higher tax burdens, underscoring the contentious nature of property tax.[294] In July 2023, as part of what it described as peaceful advocacy in the public interest, the Enat Party filed a lawsuit against the Finance Bureau of the Addis Ababa City Administration before the Federal Administrative Procedure Bench of the Federal High Court, challenging the legality of the revised

[289] Ibid
[290] Tom Good fellow, *Supra* note 4
[291] Ibid
[292] *Supra* note 21
[293] See generally, Zelalem Teferra, 'Roof and Wall' Tax Rate Reform in Addis Ababa: The Legal Conundrum and Socio-economic Pitfalls, *Mizan Law Review*, Vol. 19, No. 1, 2025, PP. 63-92
[294] Ibid

roof and wall tax.[295] The party argued that the measure, which was based solely on an administrative study and a letter, lacked a proper legal basis, was issued without lawful authority, and failed to comply with Administrative Procedure Proclamation No. 1183/2020. Despite these challenges, the federal government proceeded with reform and able to adopt Proclamation No. 1365/2025 as a nationwide framework.[296] Significant issues remain. Key concerns include strengthening the legal status and institutional capacity of ULGs, improving property rights and land administration systems, and more rigorously assessing the tax's socioeconomic and political effects.[297]

6. Property Tax Proclamation No. 1365/2025: An Overview

The enactment of the Federal Property Tax Proclamation No. 1365/2025 marks a pivotal moment in Ethiopia's property tax regime. Despite a contested and uneven reform trajectory, and notwithstanding gaps and implementation uncertainties, it constitutes the first comprehensive attempt to institutionalize modern property taxation, replacing the fragmented laws in place since the 1940s. The Proclamation contains thirty-six substantive and procedural provisions organized into four parts. It expressly repeals prior laws, notably Proclamation No. 80/1976 and its amendments, signaling a shift toward a market-oriented

[295] |**እናት ፓርቲ እና ለአዲስ አበባ ከተማ አስተዳደር ፋይናንስ ቢሮ፣የፌዴራል ከፍተኛ ፍርድ ቤት ልደታ አስተዳደር ምድብ ችሎት፣መዝገብ ቁጥር** 301593፤**ቢቢሲ፣** "**በአዲስ አበባ የቤት ግብር ማሻሻያ ተግባራዊ እንዳይሆን በፍርድቤት ያሳገደው ክስምን ይዟል**?"፣ 4 **የካቲት** 2025፣ available at: BBC Amharic (last accessed on 25 December 2025)፤**ሰለሞን ሙጬ፣** "**የእናት ፓርቲ ክስ እና የፍርድ ቤት ውሳኔ፣**" ***ዶቸቬለ፣*** **ጥር** 26 2017፣ available at: Deutsche Welle Amharic (last accessed on 25 December 2025)፤

[296] Property Tax Proclamation No. 1365/2025 Art. 3 (1)

[297] *Supra* note 61

system.[298] A transitional clause permits continued collection of land rents and building taxes under repealed laws for up to two years, excluding pre-existing arrears and penalties.[299] While this preserves revenue continuity and allows institutional adjustment, prolonged reliance on outdated frameworks risks perpetuating inefficiencies, undermining equity, and weakening reform credibility. A timely transition is therefore critical to avoid regulatory gaps.[300] Effective implementation requires substantial capacity building at regional and local levels. The Proclamation mandates regional governments to enact implementing legislation consistent with the federal framework, supported by a model law. It also delegates rule-making authority to the Council of Ministers, the MoF, and the MoUI to issue regulations, directives, and guidelines.[301] Finally, the Proclamation integrates with related legal frameworks: the Federal Tax Administration Proclamation No. 983/2016 (administrative procedures), the Real Estate Development and Real Property Marketing and Valuation Proclamation No. 1357/2024 (valuation), and the Criminal Code Proclamation No. 414/2004 (offences and penalties).[302]

At the core of the new law are ambitious objectives to redefine property taxation within Ethiopia's urban governance, land and property rights,

[298] Proclamation No. 1365/2025, Art. 42

[299] Ibid, Art. 41

[300] Ibid, Art. 43

[301] Ibid, Arts. 3 (2) & 40

[302] Ibid, Arts. 16 & 39. The effective enforcement of property taxation depends on coherent legal and institutional frameworks governing tax administration, land registration, valuation, and liability enforcement. The Federal Property Tax Proclamation, however, does not adequately incorporate or cross-reference subsequent valuation legislation or the amended urban land registration regime, creating structural misalignment. While the Model Proclamation partially mitigates this gap by incorporating the Real Estate Development and Real Property Marketing and Valuation Proclamation No. 1357/2024 and clarifying valuation standards, this amounts to functional harmonization rather than a resolution of the underlying normative fragmentation. See Regional Model Law, Art. 18

and fiscal systems. Its aims are fourfold: to expand the fiscal capacity of ULGs to finance services and infrastructure; to promote equity and redistribute wealth embedded in land and property; to strengthen the administrative foundations of urban land governance in a rapidly urbanizing context; and to embed property taxation within a harmonized fiscal framework across urban centers.[303] Property taxation is thus conceived not merely as a revenue instrument but as a policy tool for managing land valuation, regulating property markets, reducing inequality, strengthening administrative coherence, and addressing broader macroeconomic pressures.[304] The Proclamation requires that design and administration adhere to principles of sustainability, efficiency, equity, accuracy, consistency, administrative simplicity, benefit from development, transparency, and proportionality.[305] In design, the reform echoes post-Soviet property tax transitions of the 1990s, which linked revenue generation with economic restructuring, local government strengthening, and land reform.[306] In practice, however, its objectives and principles remain contested. Critics including politicians, civil society, the media, and members of parliament question fairness, local administrative capacity, unresolved property rights, weak land governance, and potential socioeconomic effects.[307] Many argue that revenue mobilization is prioritized over developmental goals and warn of inflationary and cost-of-living impacts.[308] Others note the absence of parallel reforms to strengthen ULG legal and institutional frameworks, secure property rights,

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303 Ibid, Preamble Para. 1-3
304 Ibid
305 Ibid, Art. 4
306 Merima Ali, Odd-Helge Fjeldstad and Lucas Katera, Property Taxation in Developing Countries, Bergen: Chr. Michelsen Institute (CMI) Brief, Vol. 16, No. 1, 2017
307 *Supra* note 8
308 Ibid

modernize land administration, and rationalize municipal revenue systems.[309] Without these complements, legitimacy, compliance, and effective implementation are unlikely and challenges observed in comparable reforms across developing countries.[310]

In terms of scope, it applies to the taxable properties in Ethiopia's urban centers, which number approximately 2,500 and vary widely in size, governance capacity, and level of development.[311] Uniform implementation across such diverse contexts poses significant challenges, including disparities in administrative capacity, limited technical expertise for property valuation, weak cadastral and land registration systems, and socio-economic inequalities affecting taxpayers' ability to pay.[312] Smaller towns, in particular, may struggle to maintain accurate property registers, enforce tax collection, and manage exemptions, raising concerns about fairness, efficiency, and overall effectiveness. The Proclamation expands the definition of taxable property beyond private ownership to include land use rights (leasehold and old possession), improvements to land, and building ownership.[313] While this broadens the tax base and captures the diversity of urban land tenure systems, taxing land that remains state- or publicly-owned and prevailing conflicts between public ownership and private use, presents a paradox and raises questions about public trust, legitimacy, and the enforcement of market-based valuation.[314] The law subtly treats "land use rights" as taxable property, which prompts further examination by researchers and policymakers.

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309 Ibid

310 *Supra* note 306

311 Proclamation No. 1365/2025, Art. 3 (1)

312 *Supra* note 8

313 Ibid, Arts. 2 (1) cum 5-7

314 *Supra* note 8

To enhance equity and efficiency, the law requires classification of urban centers and properties by use, economic function, and other local criteria so that differential valuation and rate structures will be applied.[315] Accordingly, each urban area must maintain two public registers: a valuation roll for periodic assessments and a tax register for exemptions and in-lieu contributions.[316] A central reform is the adoption of market-value-based assessment, replacing flat-rate and area-based methods. Taxable value is set at 25 percent of market value, as determined under valuation law.[317] The Proclamation also separates land value from the value of buildings and improvements, which shall be assessed independently but taxed jointly, to, among others, encourage efficient land use by taxing locational value without discouraging investment in improvements.[318] Implementation, however, is capacity-contingent. Most ULGs, with the exception of a few large cities, lack the legal, institutional, technical, and fiscal capacity to administer the system effectively.[319] Ambiguities in property rights, weak land administration, and deficiencies in registration and cadastral systems further constrain execution. Socioeconomic disparities and political sensitivities add complexity, underscoring the need for phased rollout, sustained capacity building, and context-sensitive adaptation.[320]

Another key feature of Proclamation No. 1365/2025 is its rate structure, which combines differentiated and phased rates across federal, regional, and local levels. It establishes two principal categories: an urban land use tax, levied at 0.2–1 percent of taxable value, and a tax on buildings

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315 Proclamation No. 1365/2025, Arts. 8-10
316 Ibid, Arts. 21 cum 2 (4)
317 Ibid, Art. 2 (5) cum 11 (3) (a and b).
318 Ibid, Art. 7
319 Zemelak Ayitenew, *Supra* note 264
320 *Supra* note 8

and land improvements, set at 0.1–1 percent.[321] By international standards these rates are moderate, but they mark a shift from earlier flat or proportional regimes toward a more progressive framework.[322] The rates are introduced gradually over four years until they reach their upper bounds.[323] This phasing mitigates taxpayer shock and allows local administrations to build capacity for valuation, assessment, and collection. The design reflects a sequencing logic: administrative readiness is treated as a precondition for full-rate enforcement. The Proclamation also adopts a layered allocation of rate-setting authority. The federal Council of Ministers may revise national rate bands; regional states set rates within those bands; and urban councils adopt annual tax schedules, subject to regional review.[324] These schedules must reflect community participation and account for taxable value, exemptions, in-lieu contributions, and land classification.[325] The framework thus embeds constrained discretion-flexibility within centrally defined parameters. In principle, this architecture enables responsiveness to inflation, property market dynamics, and local fiscal needs while preserving national coherence.[326] Its effectiveness, however, turns on basic implementation conditions such as credible and transparent valuation systems, accurate assessments, enforceable billing,

[321] Proclamation No. 1365/2025, Art. 11(3) (a) and (b)

[322] Ibid, Art. 11. Studies indicate that the property tax rate ranges from 0.26 to 0.35 percent in Germany and from 0.3 to 1.5 percent in Brazil. See Richard M. Bird and Enid Slack, *Supra* note 5

[323] Ibid, Art. 11 (3) (c)

[324] Ibid, Arts. 11 (1, 2 & 4), 12 (1-3) and 13

[325] Ibid, Art. 12 (4 and 5)

[326] Addis Insight, "Ethiopia Approves Landmark Property Tax Law Amid Debate on Economic Impact," *Addis Insight* (14 January 2025), available at Addis Insight (accessed 25 January 2026); Anteneh Aklilu, "Property Tax Law Ratified Despite Concerns from Parliamentarians," *Capital News* (20 January 2025), available at Capital News (accessed 25 January 2026).

and low-cost compliance.[327] Absent these, differentiated rates risk amplifying horizontal inequities and administrative arbitrage rather than improving equity and revenue performance.[328]

Proclamation No. 1365/2025 establishes a structured system of exemptions to advance social and developmental objectives and mitigate adverse effects such as regressivity and broader socioeconomic impacts. Exemptions are organized by purpose. The first category covers social, charitable, religious, and agricultural uses.[329] Low-income residential properties are exempt to avoid disproportionate burdens on households with limited or fixed incomes. Properties used by charities serving orphans, the elderly, and persons with disabilities are exempt, as are land and buildings used for religious purposes or cemeteries. Urban land used exclusively for agriculture is also exempt, reflecting its distinct economic function. The second category covers public and diplomatic functions, including properties owned by federal agencies, intergovernmental organizations, and diplomatic missions.[330] A notable innovation is the introduction of voluntary "in lieu of tax" contributions, requiring some exempt entities to support public service costs. Although new to Ethiopia, such Payments in Lieu of Taxes (PILOTs) are widely used internationally[331] and guided by principles of fairness, alignment with tax categories, and public interest.[332] Regional councils may grant additional exemptions, with or without in-lieu contributions, allowing

[327] Ibid
[328] Ibid
[329] Ibid, Art. 14 (1)
[330] Ibid, Art. 14 (2)
[331] Daphne A. Kenyon and Adam H. Langley, Evaluating Payments in Lieu of Taxes According to Desirable Features of a Tax System, National Tax Association Proceedings, 103rd Annual Conference on Taxation, Lincoln Institute of Land Policy, November 18, 2010
[332] Proclamation No. 1365/2025, Art. 15

flexibility to address local priorities.[333] However, the absence of clear limits, oversight, and periodic review risks excessive exemptions and erosion of the tax base—a persistent challenge in Ethiopia's system of tax incentives.[334]

The law sets out administrative and procedural provisions to ensure effective implementation of the tax. While reaffirming the applicability of the general Tax Administration Proclamation, it establishes detailed rules on tax liability, payment methods and timing, notices, default measures, and the priority of tax claims.[335] It also requires public registers and valuation records to enhance transparency and accountability.[336] On dispute resolution, Proclamation No. 1365/2025 creates a distinct framework governing the establishment, composition, qualifications, and powers of the Tax Review Committee[337] and Appeal Tribunal[338] along with procedures, requirements, and timelines for their operation. This apparent duplication of the general regime reflects the sector-specific challenges of property taxation and the need for tailored safeguards. The interdisciplinary composition of these bodies aligns with their mandate to adjudicate valuation and assessment disputes.[339] However, the law does not adequately address persistent criticisms of Ethiopia's tax grievance and appeals system.[340] Concerns remain about the independence and impartiality of review and appellate bodies, whose

[333] Ibid, Art. 14 (3 and 4)
[334] For the different problems in the areas of tax incentives and exemptions See Mekonen Kassahun, Cost and Benefit Analysis of Tax Incentives in Ethiopia, Research Journal of Finance and Accounting, Vol.12, No.7, 2021, PP. 19-31
[335] Proclamation No. 1365/2025, Arts. 16 cum 17-20
[336] Ibid, Art. 21
[337] Ibid, Arts. 22-24
[338] Ibid, Arts. 25-34
[339] Ibid, Art. 32
[340] For the different gaps in the review and appeal system see generally, Aschalew Ashagre, Tax Appeal Procedures in Ethiopia, Mizan Law Review, Vol. 8, No. 1, 2014, PP. 190-236

institutional design often favors the tax authority.[341] Prepayment requirements and the allocation of the burden of proof largely to taxpayers further constrain access to justice and may deter legitimate challenges.[342] These features reveal a structural imbalance because while revenue protection is prioritized, taxpayer rights and due process remain insufficiently safeguarded.[343]

Although administrative responsibilities rest primarily with ULGs, the law vests overarching legislative, oversight, and supervisory authority in the federal and regional governments to ensure compliance and harmonized enforcement. To this end, the Proclamation delineates distinct but complementary roles for the MoF, MoUI, MoR, and regional and federal city governments.[344] The MoF aligns property tax policy with national economic objectives, proposes legislative amendments, sets national tax ranges and exemptions, and monitors system performance to safeguard revenue stability.[345] The MoUI establishes technical standards for property classification and valuation and supports regional authorities in tax data management and institutional capacity building.[346] The MoR leads modernization efforts, including developing digital tools, and provides technical assistance to local governments in tax collection and administration.[347] Regional and federal city governments implement the tax system, enforce national standards, administer exemptions, and promote compliance through

341 Ibid
342 Ibid
343 Ibid
344 Proclamation No. 1365/2025, Arts. 35-38
345 Ibid, Arts. 35
346 Ibid, Arts. 36
347 Ibid, Arts. 37

taxpayer education and appeals mechanisms.[348] The regional model law assigns similar administrative functions to relevant bureaus and local departments.[349] These arrangements aim to create a coordinated, multi-tiered property tax regime that balances federal oversight with local execution, reconciling local fiscal empowerment with coherent national policy and intergovernmental accountability.

7. Concluding Remarks

This article traces the historical and legal evolution of property taxation in Ethiopia, from ancient land tributes to the Federal Property Tax Proclamation No. 1365/2025. Organized into four phases, it shows how land policy, local governance, and fiscal capacity have shaped its trajectory. The analysis demonstrates that property taxation is not new to Ethiopia. Before the 1940s, taxation was largely tribute-based, embedded in hierarchical semi-feudal, feudal, and religious systems. Land functioned not only as a productive asset and revenue source but also as an instrument of political and social control. From the mid-19th century, reform efforts sought to modernize taxation through land measurement and cash payments. This was followed by more intensive reform during the Italian Occupation (1936–1941), when colonial authorities attempted to dismantle traditional land and tax systems. Post-liberation reforms under the imperial regime (1940s–1974) aimed to centralize and formalize rural and urban property taxation, but limited administrative capacity and weak valuation, assessment, and enforcement constrained outcomes. During the Derg era (1974–1991), the abolition of private land ownership and nationalization of property disrupted institutional continuity, eroding the fiscal role and

[348] Ibid, Arts. 38
[349] Regional Model Law, Arts. 60-63

administrative foundations of property taxation.

In the post-1991 federal period, decentralization and legal reform created opportunities to institutionalize property taxation. Measures included the introduction of the urban land lease holding system and municipal revenue codes. However, these remained fragmented and did not produce a coherent system of land-based revenue or property taxation. Fiscal policy prioritized income and consumption taxes, while land-based revenues were constrained by outdated legal frameworks, weak valuation systems, widespread informality, and deficient cadastral and registration systems. As a result, local governments continued to rely heavily on intergovernmental transfers and external support. These structural deficiencies necessitated comprehensive reform, initiated in 2011 and culminating more than a decade later in Proclamation No. 1365/2025. The new framework seeks to rationalize property taxation, clarify administrative responsibilities across federal, regional, and local levels, and strengthen revenue mobilization while promoting transparency, equity, and fiscal accountability.

The article shows that property taxation is not a new phenomenon in Ethiopia but has evolved through successive political and legal regimes since ancient times. Moreover, the tax is more than a fiscal instrument and reflects enduring struggles over land, authority, and state legitimacy. Each phase of development- feudal, imperial, socialist, and federal- demonstrates how legal, administrative, and political choices have shaped system design, administrative capacity, and normative legitimacy. The reform trajectory is thus path-dependent, closely linked to changing land tenure regimes, governance structures, and fiscal priorities. The recent reform marks a potential turning point, with scope to align property taxation with contemporary governance and urban development objectives. Its success, however, depends on resolving persistent constraints in valuation, assessment, enforcement, and administrative capacity. A historically grounded perspective is therefore essential for both policymakers and researchers; failure to internalize past lessons risks repeating them. Such a perspective is indispensable for designing and implementing a property tax system capable of supporting sustainable revenue mobilization, decentralized governance, and broader socio-economic development in Ethiopia.

Examining the Tension between Land Acquisition and Developers' Rights in Ethiopia's Special Economic Zones: The Case of *Gadaa* SEZ

Nanesa Wata Derso§

Abstract

This study examines the legal framework and land acquisition procedures for Special Economic Zones (SEZs) in Ethiopia using the Gadaa SEZ as a case study. It employs a qualitative legal methodology to trace the continuum of law that transforms land from a smallholder's livelihood base into a developer's securitized asset. The article explains how 'land acquisition procedure and developers' rights' in Ethiopia's Special Economic Zones are legally managed in conformity with smallholders constitutional mandated rights. It exposes the functional design of this system creating a legal enclave of exception which severs accountability between beneficiaries and displaced communities. It also constructs a hierarchy between financialised leaseholds and extinguished social rights, and risks hollowing out state regulatory power. The findings of the study reveal inherent contradictions between Ethiopia's constitutional land values and its SEZ policy. The study offers insight on how law facilitates dispossession through more than just violations, but also through how it is structured and operated.

Keywords: Special Economic Zones, Land Acquisition, Expropriation Law, Power Imbalances, Developers Rights, Ethiopia.

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Introduction

Special Economic Zones (SEZs) have become dominant instruments in global economic policy, with their numbers growing across both technologically advanced and emerging economies as targeted instruments for growth, investment, and industrial change.[1] Their benefits often come with noteworthy welfare concerns, including potential alterations in economic arrangement, fiscal impacts, and socio-environmental costs.[2] The contemporary proliferation and ongoing processes surrounding the zones ranging from Free Trade Zones to specialized Industrial Parks highlight a complex balance between macroeconomic gains and local community's costs.[3] Thus, the rapid proliferation may create a constant push-and-pull between national macroeconomic advancement and the localized costs borne by host communities. Navigating this complex dynamic requires evaluating the specific trade-offs involved in zone-based development.

In Ethiopia, as in much of the Global South, land is not simply an economic advantage but a vibrant, multi-dimensional resource.[4] It is a source of livelihood, a source of cultural identity, and an important part of livelihood for agriculture-dependent populations.[5] The Ethiopian

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[1] Christophe Cramer, Derek Johnston and Bernardo Mueller, The Political Economy of Special Economic Zones in Ethiopia, *Journal of Modern African Studies*, Vol. 56, No. 1, (2020), pp. 3-5.

[2] Olivier De Schutter, The Green Rush: The Global Race for Farmland and the Rights of Land Users, *Harvard International Law Journal*, Vol. 52, (2011), pp. 504, 525-530; George C Schoneveld, 'The Geopolitics of African Agricultural Development', *Biofuels*, Vol. 6, (2014), pp. 5-6, 5.

[3] *Id.*

[4] Dessalegn Rahmato, *Land to the Investors: Large-Scale Land Transfers in Ethiopia*, FSS Monograph No. 3, Forum for Social Studies, (2011), pp. 12-15.

[5] The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, *Federal Negarit Gazetta*, (1995), Article 40(3).

constitutional order confers eventual ownership of all land in the State and the peoples of Ethiopia, prohibiting sale and establishing a state-administered system of use rights.[6] This scheme places a profound accountability on the state to govern land equitably, corresponding its role as a custodian of nationwide resources with its mandate to nurture economic development.[7]

The Government has pursued developmentalism and implemented an active industrial policy since the early 2000s.[8] This motivation dictates access to large, adjacent tracts of land, often located in semi-urban or countryside areas where smallholder farming is prevailing.[9] Consequently, SEZ development is intrinsically linked to the state's power of expropriation which is the compulsory acquisition of landholdings for a declared "public purpose" subject to compensation.[10]

While the formal Ethiopian legal framework for expropriation and SEZs has been documented, existing literature has predominantly focused on textual description or high-level policy analysis.[11] Within the Ethiopian perspective, academic work has widely scrutinized the

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6 Daniel Mamo, *The Gada Special Economic Zone: A Legal and Policy Analysis*, Ethiopian Economics Association, Research Brief, (2022), p. 7.

7 World Bank, *Ethiopia: Priorities for Ending Extreme Poverty and Promoting Shared Prosperity–Systematic Country Diagnostic,* World Bank, (2018), p. 63.

8 Tom Lavers, Patterns of Agrarian Transformation in Ethiopia: State-Mediated Commercialization and the Land Grab, *Journal of Peasant Studies*, Vol. 39, (2012), pp. 795, 800-803.

9 Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation, Proclamation No. 1161/2019 *Federal Negarit Gazetta*, No. 13, (2019), Article 2(5).

10 See Darsahun Abebe, *Land, Law and Development in Ethiopia*, Routledge, (2022), ch. 5.

11 See Abdulahi Abdurahman, The Evolution and Transformation of Ethiopia's Land Tenure System, *Mizan Law Review*, Vol. 15, No. 1, (2021), p. 1; Fekade Tamrat, Governing Land in Ethiopia: The Politics of Tenure Insecurity, *Review of African Political Economy*, Vol. 47, (2021), p. 163.

country's unique state-ownership land tenure system, the expropriation legal framework, and its socio-political allegations.[12] However, a noteworthy gap subsists in critical, doctrinal legal analysis that cross-examines how these laws function in practice within the distinctive context of SEZs. There is insufficient doctrinal legal analysis examining how Ethiopia's specific land governance and expropriation laws operate in practice to facilitate land assembly for SEZs, and what legal rights and security are subsequently conferred upon the SEZ developers themselves.[13] The literature tends to treat the issues of smallholder displacement and investor rights separately, lacking an integrated analysis of the complete legal chain from the compulsory acquisition of land from one group to its leasehold transfer to another within the novel institutional framework of SEZ.[14]

Hence, this paper fills this gap by moving beyond a descriptive account of "what the law says" to provide a critical analysis of "how the law works" in structuring relations of power during SEZ-driven land acquisition. The *Gadaa* Special Economic Zone in Oromia serves as a critical and timely case study. As one of Ethiopia's largest and most ambitious zone projects, its implementation brings the tensions between rapid development imperatives and constitutional protections for smallholders to examine the implementation of legal rules under pressure.

This paper considers Ethiopia's expropriation procedures. It particularly discuss the consultation process and the definition of "public purpose,"

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12 This gap is identified in Tsegaye Moreda, Large-Scale Land Acquisitions, State Authority and Indigenous Local Communities: Insights from Ethiopia, *Third World Quarterly*, Vol. 42, No. 3, (2017), pp. 8-10.

13 Cramer, Johnston and Mueller, *Supra* note 1, pp. 15-17.

14 Mamo, *Supra* note 6, pp. 1-3.

function in the high-stakes context of SEZ development, and whose interests do they structurally favor. Likewise, it also elaborates the legal and normative consequences of a model that legally insulates SEZ developers from direct interaction with and accountability to displaced communities. Moreover, it address whether the current legal framework establish a proportionate balance between the robust rights granted to developers and the protections afforded to smallholders.

The paper is organized as follows: in the first section, the paper explains the expropriation legal framework examining the constitutional and statutory foundation deconstructing core safeguards like public purpose and compensation, assessing heightened SEZ-specific risks, and critiquing the abyss of enforcement. In the second section, the paper examines the legal process for developer land access providing detail descriptions of the formal pathway, evaluating the buffer model, analyzing the consequences of severed accountability, discussing structural power imbalances, and identifying legal risks for developers. The third section analyzes developers' rights and obligations over land dissecting their rights bundle, assessing the proportionality and legal schism with displaced landholders and exploring the contradiction with the constitutional ethos of land. Finally, the paper concludes with a summary of key points and offering recommendations for legal and policy reform.

1. The Position of the Law on Expropriation

1.1. The Constitutional and Statutory Foundation: Principles and Promises

The legal framework governing land expropriation in Ethiopia represents a critical interval where state power, constitutional rights, and developmental desire traverse.[15] It is a realm defined by fundamental principles intended to protect justice and fairness, but it has historically been rife with procedural flaws and interpretive ambiguities that can make these values ineffective.[16] The paper argues that, for the communities facing dislocation, particularly for large-scale, development projects like Special Economic Zones (SEZs), this legal design presents existential question.

The foundation of expropriation law in Ethiopia is the Constitution of the Federal Democratic Republic of Ethiopia (FDRE) of 1995. Article 40(8) serves as the keystone, proclaiming: "…the government may expropriate private property for public purposes subject to payment in advance of compensation proportionate to the worth of the property."[17] The wording of this provision indicates the non-negotiable preconditions for any lawful taking for a demonstrable public purpose. And it has to be in a manner commensurate with value, and the early payment of that compensation before dispossession take place.[18] These are not mere procedural formalities but substantive precincts on state power, envisioned to shield citizens from arbitrary deprivation.

However, the constitutional framework presents a profound and distinctive complication. Article 40(3) declares that "The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia."[19] Land is a common property of the Nations, Nationalities and Peoples of

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[15] Muradu A. *State Policy and Law in Relation to Land Alienation in Ethiopia*, PhD thesis, University of Warwick, (2014).

[16] Ambaye, Daniel W., *Land Rights and Expropriation in Ethiopia*, Springer, (2015).

[17] The FDRE Constitution, *Supra* note 5 Article 40(8).

[18] EyasuWoldegebrael, The Right to Property and the Land Expropriation Law in Ethiopia, *Bahir Dar University Journal of Law*, Vol. 4, (2016), pp. 56, 60-62.

[19] The FDRE Constitution, *Supra* note 5, Article 40(3).

Ethiopia and shall not be subject to sale or to other means of exchange." This legal provision establishes the doctrine of state ownership of land, a legacy of the Derg regime that was retained in the post-1991 order.

The practical legal consequence is radical: when land is expropriated, what is taken from the landholder is not ownership, but a usufructuary right,[20] a right to use and derive benefit from the land. Consequently, the property for which commensurate compensation must be paid under Article 40(8) is explicitly not the land itself. The compensable interest is limited to the "property located on the land and permanent improvements"[21] made to it. This creates a fundamental asymmetry: the state reclaims a use-right it granted, while the citizen loses their livelihood foundation, their cultural anchor, and their primary economic asset, yet is only compensated for the physical structures and crops upon it,[22] not for the value of the land as location, as capital, or as a productive base.

The comprehensive operationalization of these fundamental principles is found in the current FDRE Expropriation Proclamation No. 1161/2019.[23] Article 4(4) of this proclamation sets amaterialistic tone, asserting the procedure shall be translucent, participatory, fair and accountable. It introduces more exhaustive steps for estimation, notice, and the roles of various administrative bodies. The proclamation's definition of public purpose in Article 2(5) is essential since it states that "... a decision that is made by the cabinet of a Regional State, *Addis Ababa, Dire Dawa* or the proper Federal Authority on basis of an

[20] Abebe, *Supra* note 10, pp. 89-91.
[21] Expropriation Proclamation, *Supra* note 9, Article 2(6).
[22] Rahmato, *Supra*note 4, pp. 55-60.
[23] Expropriation Proclamation, *Supra* note 9.

approved land use plan or; development plan or; structural plan under the credence that the land use will directly or indirectly convey enhanced economic and social development to the public."[24] Therefore, these authorities may exercise this power where they believe the land should be used for a better development project to be carried out by public entities, private investors, or cooperatives. This formulation, relying on the subjective belief of the authority and the vague term better development project, grants significant discretion and lacks objective criteria, creating a risk of arbitrary application.

1.2. Explanation of Core Safeguards: Public Purpose, Participation, and Compensation

1.2.1. The Public Purpose Doctrine

The principle that expropriation must be for a public purpose is the crucial legal and ethical justification for preponderant individual property rights. In Ethiopia's legal framework, this principle has been rendered as elastic as to risk becoming worthless, creating a significant avenue for arbitrariness. The characterization in Proclamation 1161/2019 is upsettingly broad and subjective.[25] First, the authority to state a public purpose rests solely with political executive bodies. This politicizes the decision, insulating it from initial independent technical or judicial scrutiny. Second, the standard is based on the belief of these bodies.[26] Belief is a subjective state of mind, inherently difficult to challenge on objective grounds. A court would be exceedingly reluctant to question the bona fides of a cabinet's belief about what constitutes public benefit. Third, and most critically, the purpose need only bring

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24 *Id*., Article 2(5).
25 Abebe, *Supra* note 10, p. 145.
26 Expropriation Proclamation, *Supra* note 9, Article 2(5).

development indirectly. This is a catch-all clause of enormous breadth.

This vague definition becomes particularly potent and problematic in the context of Special Economic Zones. An SEZ is, by design, a spatially delimited area where land is allocated to private developers through lease agreements to conduct business for profit. The direct, primary use of the land is private commercial activity. The public purpose is therefore indirect. Among the spillover effects expected are job creation, technology transfer, export earnings, and macroeconomic growth.[27] This involves a two-step process: first, smallholders' land is taken through expropriation justified by an indirect public purpose. Secondly, the same land is leased to a private company for direct commercial use.[28]

1.2.2. Participatory Safeguards: The Ritual of Consultation Vs. Substantive Engagement

The Proclamation 1161/2019 and Regulation 472/2020 emphasize the importance of participation by mandating public consultation. Regulation 472/2020 stipulates that consultations should be conducted at least one year in advance for standard projects; for urgent projects of national/regional significance, this time period is shortened to six months. Although these rules represent a formal advance, a critical analysis reveals how they can be manipulated in order to achieve procedural compliance without substantive engagement.[29] The process

[27] Cramer, Johnston and Mueller, *Supra* note 1, pp. 10-12.

[28] Liz Alden Wily, The Law and Land Grabbing: Friend or Foe? *International Affairs*, Vol. 71, No. 3, (2012), p. 7.

[29] Expropriation and Valuation, Compensation and Resettlement, Council of Ministers Regulation, Regulation No. 472/2019, *Federal Negarit Gazetta*, 25th Year No. 13, (2019), Article 4(3) and 4(4).

begins aiming for a high participation of three-fourths of affected landholders. If this fails, the threshold lowers to more than half in a second meeting. If this second meeting also fails to attract half the landholders, a third meeting can proceed with any number present.

This mechanism ensures the event of a consultation will always occur. Authorities can satisfy the legal requirement by holding a meeting, even if it is attended only by a handful of individuals who may be sympathetic, coerced, or unrepresentative. A community's strategic choice to boycott a process it perceives as illegitimate or unfair is neutralized by the law itself; their absence does not stall the project but merely triggers the next, lower threshold. The consultation becomes a ritual to be completed, not a genuine dialogue to be heeded. The recording of minutes from a meeting with any number of participants can then be presented as evidence of compliance, even if the vast majority of the community rejects the project.

For SEZ projects, the inadequacy of this consultative model is magnified. SEZs pose complex issues including long-term environmental effects, and changes to local governance. These issues need to be analyzed in depth and iteratively. Affected communities, often with limited literacy and technical expertise, are expected to engage with sophisticated development blueprints within a rigid, state-controlled timeline. It is noteworthy that the six-month urgency clause for projects that are nationally significant, a category that can be easily applied to Special Economic Zones like *Gadaa*, further prolongs this already challenging process.[30] The law provides no guarantee that community feedback will alter the project's fundamental design or

[30] *Id,* Article 4(2).

location; consultation risks being a one-way information session rather than a collaborative planning exercise. The principle of "free, prior, and informed consent" (FPIC), an emerging standard in international law regarding indigenous peoples and land, finds no robust counterpart here, where the process is better characterized as structured, prior, and informed notification.[31]

1.2.3. The Compensation Paradigm: Paying for Improvements, Ignoring Value

The constitutional and statutory compensation regime is the most materially consequential part of the process for affected landholders. As established, the law mandates commensurate compensation paid in advance, but confines this compensation to "property on the land and permanent improvements.[32] In most cases, the valuation process, which is usually conducted by consultants hired by the government, does not accurately reflect the true economic loss. The value of perennial crops, fruit trees, and buildings may be calculated, but frequently at rates below replacement cost or market value. More fundamentally, the exclusion of land value from compensation constitutes a massive financial blow.[33] For a smallholder, the value of their holding is not simply the sum of the house and the mango trees; it is the productive capacity of the soil, the access to water, the location relative to markets, and the security it provides for the family's future.[34] This commercial

[31] UN Committee on Economic, Social and Cultural Rights, General Comment No. 26 (2022) on Land and Economic, Social and Cultural Rights, UN Doc E/C.12/GC/26, (24 January 2023), para. 51.
[32] Expropriation Proclamation, *Supra* note 9, Article 2(6).
[33] Moreda, *Supra* note 12, p. 12.
[34] Jan Douwe van der Ploeg, The New Peasantries: Struggles for Autonomy and Sustainability in an Era of Empire and Globalization, (2nd ed, Routledge 2018) p.45.

value or income-generating potential is legally erased.

This creates a devastating paradox. A household is dispossessed of its primary income-generating asset (the land) but is only compensated for the ancillary fixtures upon it. The compensation sum is therefore almost invariably insufficient to purchase or lease equivalent farmland elsewhere, especially as large-scale projects like SEZs drive up land prices in surrounding areas.[35] The result is not just displacement but economic displacement: a transition from being a land-based producer to being a landless laborer, often without the skills to compete in the new wage economy the SEZ promises to create.[36] The commensurate compensation, by legal design, does not commensurate with the total loss of livelihood, identity, and socio-economic standing. It is a financial settlement for chattels, not restitution for the loss of a way of life.

1.3. The Unique Heightened Risks in the SEZ Context

The general frailties in Ethiopia's expropriation law are not merely abstract concerns; they are activated and intensified when the taking is for an SEZ. SEZs represent a distinct category of land use that exacerbates legal and social risks. Unlike a linear infrastructure project that takes a narrow corridor, an SEZ consumes vast, contiguous areas. This leads to the wholesale transformation of a landscape and the permanent dissolution of existing social and economic networks.[37]

Furthermore, SEZs often operate as regulatory and physical enclaves, sometimes with separate administrative rules. Displacement for an SEZ

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[35] Samuel Ghebremariam, *Expropriation, Valuation and Compensation in Ethiopia: The Case of Addis Ababa*, PhD thesis, University of Groningen, (2019), pp. 112-115.
[36] Rahmato, *Supra* note 4, p. 72.
[37] Cramer, Johnston and Mueller, *Supra* note 1, p. 8.

does not mean making way for a public good integrated into the community; it means being excluded from a new, bounded zone governed by different priorities (investment, export) to which former residents may have limited access or benefit.

The process often involves the creation of a state-owned entity (e.g., the *Gadaa* SEZ Development Corporation) that acts as a land bank. Upon expropriation, land is transferred to a corporation, which prepares it for development and leases it to developers.[38] This institutionalizes a buffer between the rights-taking and the rights-granting phases. The expropriation authority (local government) and the lease-granting authority (SEZ Corporation) may be different entities, allowing each to point to the other's mandate. There is no direct link between dispossession and commercial benefit, making accountability more difficult.

It is common for SEZs to be framed as strategically imperative to a country's economic development. As a result of this declaration of national significance, Regulation 472/2020 calls for a shorter six-month consultation period. The urgency rationale, while politically compelling, systematically curtails the time available for the very participation and due diligence the law nominally guarantees, privileging speed of implementation over depth of process.[39]

The economic argument for an SEZ is that it will increase the value of the region. However, this anticipated value creation is entirely captured

[38] Mamo, *Supra* note 6, pp. 10-12.
[39] Expropriation Regulation, *Supra* note 27, Article 4(2).

by the state (through lease payments) and the investors.[40] The smallholder, whose land forms the foundation of this value creation, is legally prohibited from sharing in it because they cannot claim compensation based on the future commercial value of the land.[41]

1.4. The Abyss of Enforcement: Remedies and Recourse in Theory and Practice

Perhaps the most telling feature of a legal system is not the rights it proclaims, but the remedies it provides when those rights are violated.[42] Here, Ethiopia's expropriation framework reveals its most profound weakness. Expropriations are typically challenged through the courts. Nevertheless, judicial effectiveness is severely limited by a number of factors. As a first step, it is necessary to challenge the declaration of public purpose, which is a very challenging process.[43] In this realm, where judges typically give deference to executive policy decisions, the burden of proof for demonstrating bad faith or manifest arbitrariness is nearly insurmountable.

Secondly, procedural challenges (e.g., inadequate consultation, flawed valuation) are more plausible; however, they face practical difficulties. The administrative appeals process may take a considerable amount of time. Moreover, there is no automatic injunction that stops the expropriation process while a lawsuit is pending.[44] A court can hear a complaint after the land has already been taken, the buildings have

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[40] Levien, Michael. Special economic zones and accumulation by dispossession in India,*Journal of Agrarian Change 11*, no. 4 (2011), pp. 454-483.

[41] Klaus Deininger*et al.,Rising Global Interest in Farmland: Can It Yield Sustainable and Equitable Benefits?,* World Bank Publications, (2011), p. 52.

[42] Woldegebrael,*Supra* note 19, p. 75.

[43] Abebe, *Supra* note 19, p. 150.

[44] Ghebremariam, *Supra* note 35, p. 178.

already been demolished, and the community has already been dispersed, so the legal challenge may be moot or academic in nature. The advance payment requirement is supposed to be a precondition for taking possession, but if this is violated, the law does not specify that the taking is thereby rendered null and void.

The repertoire of remedies is extremely limited. The most powerful remedy could the return of the land that is virtually unheard of in the context of large-scale development projects like SEZs.[45] The government's interest and sunk costs are considered too great. The law does not explicitly provide for restitution as a remedy for procedural flaws.

The Proclamation designates various government organs (Municipalities, Woreda Administrations, regional cabinets) as implementing bodies but does not create a strong, independent oversight institution with powers to monitor compliance, receive grievances, and sanction non-performing agencies.[46] Authorities know that even if they cut corners on consultation or rush valuation, the worst-case scenario is likely a future court order to pay slightly more compensation that a cost that can be factored into the project budget.[47]

[45] Moreda, *Supra* note 12, p. 15.
[46] Camilla Toulmin, Land, Investment, and Migration: Thirty-five Years of Village Life in Mali, Oxford University Press, (2020), p. 210.
[47] Lavers, *Supra* note 8, p. 815.

2. The Legal Process for Developers to Obtain Land For SEZ Development: The Buffer Model and Systemic Imbalances

2.1. The Formal Pathway: A Doctrine of Separation and Efficiency

The legal pathway for developers to acquire land within an Ethiopian Special Economic Zone (SEZ) is often presented in official discourse and legal texts as a streamlined, transparent, and rule-bound administrative process.[48] This narrative depicts a clean, linear sequence: the state, following its expropriation laws, clears land for a public purpose; a state-owned SEZ Corporation prepares this land with infrastructure; and private developers subsequently enter into lease agreements with this Corporation, thereby gaining secure access to a serviced plot for investment.

The formal legal process is established through a cascade of legislation. The constitutional and statutory expropriation framework (Proclamation 1161/2019) provides the initial authority for the state to acquire landholdings. As detailed in Section 2, this is justified under a broad "public purpose" rationale, with compensation (for improvements, not land) paid to displaced smallholders. Once land is cleared, it is transferred to the custodianship of an SEZ development authority. For the *Gadaa* SEZ, this is enabled by Proclamation No. 226/2020 and Regulation No. 228/2022, which establish the *Gadaa* Special Economic Zone Development Corporation.

This Corporation acts as the sole interface for developers. Its mandate includes land preparation that providing core infrastructure like roads,

[48] Gao Han and Xingping Wang, Comparing the Social-Economic Externalities from the Perspective of Private and Public Industrial Parks: Case Study of Eastern Industrial Park and Bole Lemi Industrial Park, Ethiopia, *Journal of Urban Management,* (2025).

electricity, water, and telecommunications could creating a plug-and-play environment. Developers access land not through purchase, which is constitutionally impossible, but through a leasehold system. Federal Proclamation No. 1322/2024 defines a lease as "a contract regarding land tenure by which a right of use of special economic zone land is acquired."[49] The *Gadaa* SEZ laws further define a sub-lease as the transfer of a developed parcel by one leaseholder to another.

The process for a developer is administratively straightforward; a developer negotiates and signs a lease agreement with the SEZ Corporation. Upon signing, the developer is to receive a leasehold certificate, often within a stipulated short period (e.g., seven days as indicated in some provisions), which formalizes their use rights. The lease agreement, typically long-term (e.g., 50-99 years), and the certificate are meant to provide tenure security, guaranteeing the developer peaceful possession for the lease period. A key, deliberate feature of this model is the institutional and legal buffer between the developer and the original landholders. Developers contract with the SEZ Corporation, a state entity. They have no privity of contract, no direct negotiation, and ostensibly no legal relationship with the communities who previously occupied the land.

2.2. Does Procedural Compliance Ensure Legality and Fairness?

The fundamental question is whether meticulous adherence to this

[49] Gada Special Economic Zone Development Corporation Establishment Proclamation (Oromia), Proclamation No. 226/2020, *Magalata Oromia Gazetta*, 26th Year No. 114, (2020); Investment (Amendment) Proclamation, Proclamation No. 1322/2024, *Federal Negarit Gazetta*, 30th Year No. 10, (2024).

statutory pathway that checking every box for consultation, compensation, and lease signing renders the outcome legal and fair in a substantive sense. A critical legal analysis suggests it does not, because the process itself is built upon a foundational asymmetry and can be complied with in a mechanistic manner that voids it of ethical and juridical substance.

Law operates at procedure and substance levels. The process may be procedurally perfect, but it may be substantively unjust if the underlying rules are biased. Ethiopia's expropriation process, as discussed in Section 2, suffers from both at procedure and substance issues. As a consequence, a developer’s lease title is only as legally sound as the validity of the preceding expropriation.[50] If the initial taking was flawed; for instance, if public purpose was arbitrarily declared, consultations were a sham per the any number quorum rule, or compensation was not truly commensurate or advanced, then the state’s title to lease that land is legally contaminated.

However, the SEZ legal framework constructs a powerful legal fiction of cleansed title. By interposing the SEZ Corporation and having it issue a new leasehold certificate, the system creates a documentary break from the past.[51] The developer’s certificate does not trace title back through the expropriation of Smallholder; it emanates from the state’s inherent ownership and the Corporation’s administrative grant. This fiction provides comfort to the investor but does not extinguish the underlying rights claim or the moral grievance of the displaced community. It confuses administrative regularity with restorative justice. Fairness is not achieved by a flawless following of flawed rules;

[50] Alden Wily, *Supra* note 28, p. 9.
[51] Cramer, Johnston and Mueller, *Supra* note 1, p. 14.

it requires rules that are themselves fair and justly applied.[52]

The separation of expropriation from leasing creates a doctrinal sleight of hand. The public purpose that justifies the coercive taking is the indirect benefit of regional development. However, the moment the land is leased to a private developer for a profit-making enterprise, the direct use becomes private. The law anticipates this, but the lived reality creates a perception, and often a reality, of private gain being prioritized over public good. When a community sees its farmland transformed into a fenced-off factory for export, with limited local employment, the state's argument about indirect public benefit can ring hollow. The procedural compliance having a cabinet minute declaring the SEZ a public purpose which does little to address this substantive disconnect or legitimize the outcome in the eyes of the affected.

2.3. The Consequences of the No Direct Interaction Model

The isolation of developers from communities is a double-edged sword with severe negative consequences for accountability, transparency, and conflict resolution. They are accountable only for their contractual performance. They bear no direct accountability to the displaced community for the social and environmental consequences of their operation.[53] The community cannot leverage its status as a former landholder or a party to an agreement; it must appeal to the very state authorities that facilitated the project, often with limited political leverage. This diffuses responsibility, allowing the developer to claim, "*We dealt only with the governmen*t," and the government to claim, "*We ensured the investor followed the law*."

[52] De Schutter, *Supra* note 2, p. 540
[53] Mamo, *Supra* note 6, p. 11

Grievances related to the acquisition process was resulted by inadequate compensation, unfair valuation, forced displacement that are directed at the local expropriating authorities. Grievances related to the operations of the SEZ labor practices, pollution, and community development promises that are directed at the SEZ Corporation or sectoral regulators. There is no integrated, accessible, and independent grievance mechanism where the community can address the entity that ultimately benefits from their land. This disintegration makes it challenging for communities to seek all-inclusive redress. Their claims are bureaucratically left in silos, often leading to exhaustion and disillusionment.[54]

A social license to operate refers to the ongoing acceptance of a company's project by the local community and stakeholders. It is built on trust, mutual benefit, and continuous engagement. The no-contact model assumes the state can confer this license administratively. This is a profound miscalculation. A social license cannot be issued by a government ministry; it must be earned from the community.[55] By preventing the relationship-building that comes from direct negotiation and engagement, this model stores up resentment. Communities, feeling ignored and dispossessed, may later manifest their dissatisfaction through protests targeting the SEZ or the developer's operations. The developer, having never built a relationship with the community, is ill-equipped to manage this conflict, which ultimately poses a direct operational and reputational risk.[56] The efficiency of the initial acquisition is thus traded for long-term instability.

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[54] Moreda, *Supra* note 12, p. 14.
[55] Deininger *et al*., *Supra* note 41, p. xxiii.
[56] Rahmato, *Supra* note 4, p. 85.

2.4. Structural Power Imbalances

The land acquisition process for SEZs institutionalizes a profound hierarchy of power, privileging state and capital over local rights-holders. The state occupies a conflicted and overwhelmingly powerful position i.e., state as Player and Referee. It is the serve as; legislator, it drafts the laws governing expropriation, SEZs, and investment; expropriator: its local agencies execute the taking of land; and landowner: it holds ultimate title to all land; lessor through the SEZ Corporation, it leases the land to developers; regulator: it sets and enforces the rules within the SEZ; and arbiter: its courts are the final venue for disputes.

This consolidation of roles creates an inherent conflict of interest.[57] The state is incentivized to interpret laws in favor of project implementation, to undervalue compensation to keep project costs low, and to resolve disputes in a manner that does not derail its flagship development projects. The landholder, in contrast, engages with the state wearing all these different hats simultaneously, facing with unlimited forms of authority. Developers enter this matrix with significant structural advantages conferred by the state. They are the desired clients in a one-stop-shop system designed to attract them. They benefit from insulation of Social Risk, as discussed; they are shielded from direct land conflict.[58] They receive tax holidays, customs duty exemptions, and repatriation guarantees.

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57 Tamrat, *Supra* note 11, p. 170.
58 Cramer, Johnston and Mueller, *Supra* note 1, p. 18.

The smallholder exists at the bottom of this power pyramid.[59] Their rights are derivative (use rights, not ownership), their participation is often ritualistic, their compensation is limited by law, and their recourse is through overburdened and politically sensitive institutions.[60] Moreover, the power of smallholders' labour, their community cohesion, and their moral claim becomes visible through disruptive protest, which carries its own risks. The legal process systematically disempowers them, transforming them from rights-bearing citizens into obstacles to be managed and costs to be compensated at a minimum rate.

2.5. The Legal Risks for Developers: The Boomerang Effect of a Flawed Process

Paradoxically, the very system designed to de-risk investment for developers can be the source of significant, material legal and operational risks. These are not always apparent during the lease-signing phase but can manifest destructively later. A developer's leasehold is a derivative interest. Its security depends on the validity of the state's underlying title. If the original expropriation is successfully challenged in court on substantive grounds;[61] for example, if a higher court were to rule that the public purpose declaration was an abuse of power; the state's right to lease the land could be fundamentally undermined. While courts may be reluctant to order restitution against a major investor, they could order further investigations, suspend certain permits, or award large damages to the community to be paid by the state. The resulting political and legal crisis could freeze the project,

[59] Abdurahman, *Supra* note 11, p. 22.
[60] Ibid.
[61] Alden Wily, *Supra* note 28, p. 11.

scare off financiers, and tarnish the developer's reputation. The developer's clean title is only clean until the hidden flaw is exposed.

As noted, the lack of a social license is a tangible business risk. Community grievances that are ignored during acquisition do not disappear; they fester. Developers may face labor unrest through displaced individuals who become employees may bring grievances about displacement into the workplace. This could result for the protests can block access roads to the SEZ. It could resulted for reputational damage[62] and increased security cost as different International NGOs and media may highlight conflicts, leading to consumer activism or scrutiny from foreign investors and partners. These are not hypothetical; they are common outcomes of large-scale land acquisitions globally where community interests are marginalized. A developer who is ignorant of the specific history and grievances related to their land plot is operationally vulnerable.

The developer's fortunes become intensely tied to a single counterparty: the state, in the form of the SEZ Corporation and the broader government. This creates dependency risks: a change in government policy or administration could lead to pressure to renegotiate lease terms or community benefit agreements.[63] The state's multiple roles mean it can use its regulatory power (e.g., environmental audits, tax inspections) to pressure the developer on unrelated issues. If the state fails to deliver on promised infrastructure (power, water) outside the SEZ gate or fails to manage community relations, the developer bears the operational consequences.

[62] Deininger *et al., Supra* note 41, p. 120.
[63] Cramer, Johnston and Mueller, *Supra* note 1, p. 20.

3. Developers' Rights and Obligations Over Land: Enclaves of Privilege and the Erosion of Public Interest

3.1. The Composition of Developer Rights

The Federal SEZ Proclamation No. 1322/2024 and specific laws: the *Gadaa* SEZ Proclamation No. 226/2020, confers upon licensed developers a comprehensive and potent set of rights over land. This bundle transforms the state-owned leasehold into a robust, quasi-proprietary interest.[64] As per these laws, Right to Design, Construct, and Develop is the foundational right enabling the developer to physically transform the leased land with industrial, commercial, and residential infrastructure. Likewise, Article 24(1) (b) of Proclamation 1322/2024 and Article 9(3) of Proclamation 226/2020 respectively grant the developer the right to sub-lease developed plots to other enterprises. This right effectively creates a market in land use rights within the SEZ, a blatant contrast to the constitutionally mandated prevention on land sales and exchanges outside it. Developers can contract with third-party sub-developers for specific projects, amplifying their capacity and spreading risk.

Developers can use their leasehold rights, along with immovable and movable assets on the land, as collateral to secure loans from domestic and international financial institutions (Proclamation 1322/2024, Art. 24(1) (g); Proclamation 226/2020, Art. 9(8)). This securitization is vital for raising capital but fundamentally treats the state-leased land as a financial asset, integrating it into global capital circuits. Explicit rights to seek loans, guarantees, and other financial instruments are granted, subject to applicable law.

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[64] Investment Proclamation, *Supra* note48, Article 24.

Developers gain significant control over the management and environment of their developed area. Right to Change Land Use (with permission), this allows for operational flexibility, subject to authority approval. Upon lease expiration, developers are often granted a priority right to renew, creating a de facto expectation of perpetual tenure. This edges closer to a perpetual usufruct, significantly diluting the state's future reversionary interest.

While framed as incentives, the sweeping customs duty and tax exemptions (Proclamation 1322/2024, Art. 24(1) (i); Proclamation 226/2020, Art. 9(12)) function as entrenched financial rights for the lease period.[65] They represent a direct transfer of potential public revenue to the developer, foregone in the hope of future, indirect economic benefits.

3.2. Proportionality between Private Rights and Public Interest

The legal framework creates a powerful asymmetry. The developer's rights (to sub-lease, mortgage, renew) are clearly enumerated, legally enforceable, and designed for long-term security. In contrast, the state's and the public's claims to benefit are vague, indirect, and often non-justiciable.[66] The public purpose is an amorphous expectation of development, not a contractual performance metric. If an SEZ becomes a site of capital flight, transfer pricing, or low-wage employment with few linkages to the local economy, the developer may still be in full compliance with the law and enjoy all its rights and incentives. The tools for the state to recalibrate the relationship to enforce higher labor

[65] Gada SEZ Proclamation No. 226/2020, *Supra* note 49, Article 9.
[66] Abebe, *Supra* note 10, p. 168.

standards, mandate local procurement, or revise fiscal terms which are weak, as aggressive use could be framed as a violation of the stable and predictable investment climate the rights bundle promises. The developer's rights are legally hard; the public's benefits are politically soft.

The right to sub-lease is particularly significant and problematic from a public interest perspective. It means land taken from smallholders for an indirect public purpose can be profitably on-rented by a private intermediary. The developer becomes a rentier, potentially extracting value without engaging in primary production.[67] The law permits this, but it stretches the concept of incentivizing investment into the realm of granting monopoly-like spatial rights. The public interest justification weakens as the chain between the initial public-purpose taking and the final, potentially purely commercial, end-user lengthens.

Extensive tax holidays represent a direct diversion of resources from the public fisc. The argument is that forgone revenue is an investment in future growth. However, this creates a double injustice for displaced communities.[68] First, they lose their land for below-value compensation; second, the project that displaced them is then exempt from contributing to the national and local tax base that funds public services which they, now more vulnerable, may desperately need. The proportionality test fails if the incentives so severely handicap the state's ability to fund public goods that the net social benefit of the SEZ is negated, or if it entrenches a regime where foreign capital operates in a fiscal vacuum while citizens bear the full tax burden.

[67] De Schutter, *Supra* note 2, p. 525.
[68] World Bank, *Supra* note 7, p. 82.

3.3. Developer Rights vs. Displaced Landholder Rights

The law meticulously constructs two separate, non-interacting legal universes. This is not an accident but a core feature of the model. The developer's interest is contractual leasehold, fortified with statutory rights (sub-lease, mortgage, renewal), protected by investment law, and enforceable against the state. It is designed to be bankable, tradable, and secure.[69] However, displaced landholder's former interest is constitutional-statutory use right, non-transferable, terminable at the state's discretion for public purpose, compensable only for improvements. It was inherently precarious, rooted in administration, not commerce.

The expropriation process does not merely transfer an interest; it transforms its very legal nature. It converts a social/administrative right held by a citizen into a financial/commercial right held by a corporation. The two rights are incommensurate. They never meet in a legal marketplace; one is extinguished to create the preconditions for the other. The balance, therefore, is not struck between two equivalent claims but between a state-powered process of extinguishment and a state-granted package of creation.

The legal framework creates an illusion of balance through sequential compartmentalization.[70] First, expropriation Law handles the landholders' rights (with its frail safeguards). Second, SEZ and investment law handles the developers' rights (with its robust protections). The balance is procedural, not substantive. There is no single legal forum or principle that weighs the developer's right to a mortgage against the landholder's right to livelihood. Investment

[69] Woldegebrael, *Supra* note 18, p. 70.
[70] Moreda, *Supra* note 12, p. 10.

protection and social justice operate in parallel, silo tracks, with the former given vastly greater legal force and economic priority. The connection is severed: the developer's secure title is legally independent of any outstanding grievances from the expropriation process. This allows a zone of high-intensity rights (the SEZ) to be built upon a foundation of legally extinguished, yet socially unresolved, claims.

3.4. Incentives, Regulatory Oversight, and the Weakening of Public Control

Even though incentives and protections are intended to attract investment, it can contradict the principle of land as common property, by hollowing out the state's regulatory sovereignty within the SEZ enclave. Guarantees against arbitrary action and promises of a stable environment can be interpreted by investors and feared by regulators as constraints on the normal evolution of public policy. The threat of an investment treaty arbitration claim or simply the fear of scaring off other investors can create a regulatory chill.[71] The state, having granted such extensive rights and staked its credibility on the SEZ's success, may become a reluctant regulator, hesitant to enforce laws that could antagonize its anchor tenants. The SEZ authority's dual mandate to promote the zone and regulate it embodies this conflict.

The right to mortgage the leasehold introduces a potent external actor: the financial institution. If a developer defaults on a loan, the lender can foreclose on the leasehold. This raises a scenario where a parcel of Ethiopian land, initially taken for a public purpose, could end up under the effective control of a foreign bank or a different private entity selected by that bank, through a process entirely outside the state's or

[71] Cramer, Johnston and Mueller, *Supra* note 1, p. 22.

the community's control.[72] While the lease may require lender assumptions to be approved by the SEZ authority, the economic pressure to approve a qualified financial entity is immense. This distances the land even further from any vestige of direct public control, entangling it in global financial networks and their priorities.

3.5. The Contradiction with the Constitutional Ethos of Land

This entire framework sits in deep tension with the constitutional proclamation that "Land is a common property of the Nations, Nationalities and Peoples of Ethiopia" (FDRE Constitution, Art. 40(3)). The common property doctrine implies land is held in trust by the state for the collective benefit and welfare of its people.[73] The SEZ model, however, operationalizes land as a financial incentive for private capital.

The legal process transforms land from a commonly held resource (administered for citizens' use) into a capital asset on the balance sheet of a corporation, used to leverage finance and generate private profit. The common property concept implies stewardship across generations. The long-term renewable lease model privileges the time horizons of capital investment (20-50 year returns) over inter-generational equity.[74] The constitutional framework, in its emphasis on peasant rights and against eviction, acknowledges a social function of land. The SEZ legal bundle prioritizes its economic function above all else.

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[72] Abebe, *Supra* note 10, p. 172.
[73] The FDRE Constitution, *Supra* note 5, Article 40(3).
[74] Dereje Feyissa, The Ethnicization of Land Rights in Ethiopia, in Sandra Evers, Marja Spierenburg and Harry Wels (eds.), *Competing Jurisdictions: Settling Land Claims in Africa*, Brill, (2005), p. 187.

The law manages this contradiction not by resolving it, but by creating a legal enclave. Within the boundaries of the SEZ, a special legal regime applies, one that temporarily and spatially suspends the full implications of the common property doctrine in favor of a regime of private, commercial rights. The zone becomes a legal laboratory where the logic of global capital is allowed to operate with minimal friction from the national constitutional ethos.[75]

Therefore, rights granted to SEZ developers represent a decisive legal choice. The rights are disproportionate in their concrete, enforceable strength compared to the vague, indirect public benefits sought. They institutionalize a profound legal schism, elevating financial leaseholds over extinguished social use-rights, making a mockery of any substantive balance between investment and justice. Most critically, the very incentives and protections designed to attract investment can enervate the state's regulatory will and dilute public control over land, contradicting the foundational constitutional principle of land as a common trust. The SEZ is thus more than an economic policy tool; it is a legal enclave of exception. It creates a space where the normal rules of land governance, public accountability, and constitutional ethos are held in abeyance to serve a paramount goal of capital accumulation.

4. Conclusion

This paper explains how land is transformed from a subsistence basis for smallholders to a securitized asset for developers of Special Economic Zones (SEZs). The article goes beyond providing a doctrinal account of statutes to providing a critical examination of the

[75] Cramer, Johnston and Mueller, *Supra* note 1, p. 25.

institutions, procedures, and rights involved in this process. As a result, a once neutral, "technical" process now in fact embodies certain values and interests. First, while the expropriation framework does have its procedures and sequential steps, it nonetheless is passively operated by government other than operating as a textbook in which buyers and sellers: that is, actually participate.

Equipped with a legally approved broad definition of public purpose as well as consultative procedures that rigorously followed can be boiled mechanically, the state is given far too much discretion. It exercises this discretionary power systematically to benefit projects of enormous size, such as export-processing zones, whose public purpose just barely counts as an indirect and future economic benefit.

The compensation regime, by legally excluding land value, ensures that the financial cost of acquisition remains low for the state but imposes a catastrophic, un-compensated loss of livelihood and social capital on displaced communities. The process is designed for expediency, not equity. In addition, the SEZ land access model deliberately severs the legal and moral connection between the beneficiary of displacement and those displaced. By interposing a state-owned corporation as a land bank and mandating that developer's contract only with this entity, the law creates a sanitized, paper-based chain of title. This provides developers with a façade of clean land and insulates them from direct accountability. However, it also creates an accountability vacuum, obscuring responsibility for the social costs of displacement and fostering community resentment that manifests as a long-term operational risk to the SEZ itself. The developer's perceived tenure security is paradoxically built upon the socially unstable foundation of unresolved grievance.

The rights bundle granted to SEZ developers establishes a potent legal enclave that operates under a logic distinct from, and often superior to, the national constitutional ethos of land. Rights to sub-lease, mortgage, renew leases, and enjoy sweeping fiscal exemptions transform state-leased land into a tradable commodity. This creates a stark hierarchy of legal interests: robust, enforceable, commercial rights for developers versus extinguished, precarious, social-administrative rights for former landholders. The "balance" between investment protection and social justice is illusory; they operate in separate, siloed legal tracks, with the former given explicit priority and force. The cumulative effect of this legal architecture is the creation of a zone of exception. Within the SEZ, the normal rules of democratic land governance, deep community consultation, and the principle of land as a common property held in trust for the people are suspended.

In order to address these challenges and build a more equitable and sustainable model, the following actionable reforms are suggested. In the first instance, legislative reform is needed to provide a more precise, exhaustive definition of public purpose in the Expropriation Law. The government should place a high priority on direct public use and infrastructure, and ensure that cost-benefit analysis, as well as proof of an irreversible public benefit, are required for indirect purposes, such as Special Economic Zones. Ensure that consultation procedures are strengthened by removing the any-number quorum provision. Without the participation of a majority of affected parties, a consultation should be deemed invalid, triggering the requirement for mandatory mediation and redesign. Independent facilitators should be used to ensure fair dialogue.

In addition it is essential to enhance transparency and independent oversight via mandating full public disclosure of all project documents, valuation reports, consultation minutes, and lease agreements on a centralized online portal. On top of this, it is vital to strengthen judicial and remedial pathways through expanding of judicial remedies to include, in egregious cases of procedural violation, the possibility of land restitution or the mandating of an entirely new consultation and planning process.

Finally, Ethiopia stands at a crossroads. The drive for economic transformation through instruments like SEZs is undeniable. However, this study demonstrates that the legal and administrative tools currently employed to serve this drive are undermining the social fabric and principles of justice which long-term development needs.

Beyond Turnover: Aligning Ethiopia's New Minimum Alternative Tax with International Best Practices

Alemu Balcha Adugna[*]

Abstract

This article aims to examine the legal, constitutional, Administrative, and economic feasibility of Ethiopia's new turn over based Minimum Alternative Tax (MAT) by comparing it with international standards and experiences of other countries. In doing so, the paper employs doctrinal legal research methodology together with comparative Methods. Accordingly, the findings of the study shows that while the new MAT in Ethiopia aims to broaden its low tax base, the choice of turnover-based approach deviates significantly from the globally accepted profit-based approach models, including the OECD'S pillar two initiatives. Furthermore, the approach is found to be regressive, disproportionately burdening low margin or loss-making businesses and potentially stifling new investments. The article draws a key lesson from Kenya, where similar turn over based was declared unconstitutional on the grounds of inequity, and highlights India's profit based ''book profit'' system as more equitable and effective model. Finally, it recommends for the MAT transition from turnover- to profit- based model as it helps to ensure that the MAT is aligned with business actual ability to pay, promote fairness, and align the tax policy with international standards and foster more predictable and attractive environment for foreign direct investment and long-term economic growth.

Keywords: Minimum Alternative Tax, Profit based approach, Turnover-based approach, Proclamation No. 1395/2025

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1. Introduction

Although it is commonly accepted that the Alternative Minimum Tax regime originated in the U.S. in 1969, the idea of having a "tax floor" has a much longer history.[1] The precursors to modern minimum taxes are found in the 19th-century German Gewerbesteuer (Trade Tax), which functioned as an "object tax" focused on the objective earning capacity of a business rather than its net accounting profit.[2] This structure effectively prevented entities from using personal deductions or complex accounting to zero out their local tax obligations.[3] In addition, several countries traditionally resorted to forfeit or presumptive taxation, particularly in Latin America and Francophone Africa.[4] Presumptive taxation is a system where there would always be a minimum level of tax levied according to the "evidence of wealth" or gross wealth, regardless of the taxpayer's claim to have made a loss during the year under consideration.[5]

Thus, the U.S. Tax Reform Act of 1969 was not an invention of the wheel of minimum taxation per se but a particular reaction to a particular political crisis of the time, namely the 1969 revelations of Treasury Secretary Joseph Barr that 155 persons earning high incomes had paid nothing to the government in 1966.[6] In response, the U.S.

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[1] David Rosenbloom, "The Corporate Alternative Minimum Tax," Tax Notes, Vol. 177, No. 5, (2022)

[2] Wolfgang Schön, *Tax and Corporate Governance*, Springer, (2008), pp. 212-14

[3] *Id*

[4] Victor Thuronyi, Presumptive Taxation, in Victor Thuronyi, (ed.), *Tax Law Design and Drafting*, Volume 2, International Monetary Fund, (1998), p. 403

[5] *Id*

[6] David Rosenbloom, *supra* note *1.see also* Michael J. Graetz and Deborah H. Schenk, *Federal Income Taxation: Principles and Policies*, 6th edition, Foundation Press, (2009), p.732

enacted a "minimum tax" in the Tax Reform Act of 1969.[7] Its initial form was an "add-on tax," i.e., a portion of certain tax preference items. Over time, it evolved into the Minimum Alternative Tax (MAT), which compelled taxpayers to calculate their liability under two parallel systems the regular tax rules and MAT rules and to pay the higher amount. The U.S. MAT, particularly its corporate form instituted in 1986, served as a template for other countries wishing to deter tax avoidance.[8]

The concept of a MAT has grown as a solution to the root problem in modern tax systems: companies that report huge profits to shareholders but, through exemptions, deductions, and tax incentives, pay no or little corporate income tax.[9] In contemporary tax systems, they are popularly referred to as “zero-tax companies.”[10] MAT is a tax provision for the purpose of ensuring that such companies contribute at least, or "alternative," to the exchequer of governments.[11] Its origin over time was a global quest to balance tax incentives to investment and expansion with the universal objective of a fair and equitable tax system.[12] The advocates of the MAT argued that everybody who has significant economic income must have some tax to pay, irrespective of the incentives and deductions they are legally entitled to. Without a minimum tax, the public image of the tax system can become undermined by the perception that tax evasion prevails, losing the

[7] *Id.*
[8] *Id.*
[9] Reuven S. Avi-Yonah, *The International Tax Regime: A Critical Appraisal*, Harvard Journal of Law & Public Policy, Vol. 42, No. 1, (2019), p. 75
[10] *Id.*
[11] Yariv Brauner and Miranda Stewart, (eds.), *Tax, Law and Development*, Edward Elgar Publishing, (2013)
[12] David Rosenbloom, *supra* note *1*

general public's trust.[13]

Another, if less acknowledged, role is to broaden the tax base. By creating a floor to the real tax rate, an MAT can give certain and predictable tax revenues to governments.[14] This is particularly relevant to developing nations which are extremely reliant on corporate tax revenues to fund public services and infrastructure projects. It is a safeguard to prevent a race to the bottom in corporate tax rates and avoid tax breaks, useful as they are for attracting investment, from eliminating a firm's contribution to the tax base entirely.[15]

Various attempts have been made to come up with uniform application of the MAT across the globe. Accordingly, most recently, the Organization for Economic Co-operation and Development (OECD) and the G20 nations formulated a policy of global minimum tax under their Pillar Two initiative, which makes use of a profit-based approach to ensure that multinational corporations with massive turnovers pay at least a minimum effective tax rate of 15% on their combined profits.[16] Here it should be noted that while Pillar Two is typically referred to as the minimum profit tax, the Pillar Two tax base does not include the normal accounting profit base. This is because it makes use of Global Anti-Base Erosion (GloBE) income, which is financial accounting income that has been subject to certain modifications by means of additions and deductions. It is therefore very different from other minimum taxes, like India's book-profit. Many countries have again

13 Organization for Economic Co-operation and Development (OECD), *Taxing Corporate Profits Effectively: Lessons from the GloBE Rules*, OECD Publishing, (2023)
14 David Rosenbloom, *supra note 1*
15 *Id.*
16 OECD, *supra note 13*

integrated MAT into their domestic tax legislations.

Coming to Ethiopia, the issues of MAT was not addressed under the income tax proclamation 979/2016 and its predecessors.[17] It's only the recent Income Tax Amendment Proclamation 1395/2025 that introduces a MAT, a new tax initiative intended to ensure that profitable businesses pay a minimum amount of tax regardless of their low reported taxable income.[18] While the urge to widen the tax base is understandable and desirable for a nation with a low tax-to-GDP ratio, the choice to opt for a turnover-based approach, where MAT is imposed as a percentage of gross revenue has extensive and concerning implications.[19] The main problems with Ethiopia's Income Tax Amendment Proclamation 1395/2025's adoption of a turnover-based MAT are that it deviates from international standards, inherently regressive, and creates economic distortions.[20] The globally accepted approach, as adopted by the OECD's Pillar Two initiative, bases a minimum tax on profits, not gross receipts, as it's a more accurate measure of a business's ability to pay.[21] By opting for a turnover-based approach, Ethiopia's law disproportionately burdens low-margin businesses[22] and companies that are genuinely operating at a loss[23], potentially stifling new investment[24]

[17] Federal Income Tax Proclamation, Proclamation No. 979/2016, Federal Negarit Gazetta, (2016)

[18] Federal Income Tax (Amendment) Proclamation, Proclamation No. 1395/2025, *Federal Negarit Gazetta*,2025,(Here in after called proclamation No. 1395/2025).

[19] Aqib Aslam and Maria Delgado Coelho, *A Firm Lower Bound: Characteristics and Impact of Corporate Minimum Taxation*, IMF Working Paper No. 21/161, (2021), p. 1

[20] Feng Wei and Jean-François Wen, *designing a Presumptive Income Tax Based on Turnover in Countries with Large Informal Sectors*, IMF Working Paper No. 23/267, (2023), p. 1

[21] OECD, supra note 13

[22] Hitomi Komatsu, *Presumptive Tax on Small and Microenterprises with a Gender Lens in Ethiopia*, World Bank Policy Research Working Paper No. 10707, (2024), p. 1, available at https://doi.org/10.1596/1813-9450-10707 last accessed on 28 June 2026

[23] Munyaradzi Duve and Daniel P. Schutte, "A Critical Review of the Characteristics of Presumptive Tax Systems in Developing Countries", *Theory, Methodology, Practice*, Vol. 17,

and discouraging growth[25], which runs counter to the very goal of a tax which meant to stimulate economic activity.

The objective of this article is therefore to *examine the legal, constitutional, Administrative, and economic feasibility* and compatibility of adopting a turnover-based approach for MAT under Ethiopia tax law in lights of the experiences of other countries and standards provided by the OECD. So as to achieve this objective, the paper has employed doctrinal legal research methodology accompanied by comparative methods. India, France and Kenya are purposively selected for comparison since these jurisdictions have a good experience on the implementation of MAT. The three jurisdictions were chosen using a purposive criterion for comparison. The choice of Kenya was based on the fact that it had enacted a turnover-based minimum tax system similar to the one in Ethiopia but had later abolished it after some constitutional litigation.[26] The reason behind the choice of India is that it has an advanced and established book profit MAT system compared to other developing countries.[27] Lastly, the selection of France was because it is an example of the GloBE income-based OECD two-pillar model enacted through the EU minimum tax directive.[28] To make

No. 2, (2021), p. 29

24 Narciz Balasoiu et al., Impact of Direct Taxation on Economic Growth: Empirical Evidence Based on Panel Data Regression Analysis at the Level of EU Countries, *Sustainability*, Vol. 15 No. 9, (2023), p. 7148.

25 Munyaradzi Duve and Daniel P. Schutte, *supra* note 23

26 High Court of Kenya, *Krystalline Salt Limited & 67 Others v. Kenya Revenue Authority & Another*, Petition No. E028 of 2021, High Court at Nairobi, (20 September 2023); Finance Act, 2023 (Kenya), repealing the Minimum Tax introduced under the Finance Act, 2020.

27 Girish Ahuja and Ravi Gupta, *Systematic Approach to Income Tax*, Bharat Law House, latest edition, Chapter on Minimum Alternate Tax; Income-tax Act, 1961 (India), Sections 115JB-115JAA.

28 Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the

it clearer, the choice of France is not because its tax applies to domestic businesses, but that it illustrates how an internationally harmonized global minimum profit tax has been successfully embedded within national legislation using the OECD and EU approaches.[29] Thus, the French case provides lessons for international tax coordination rather than national resource mobilization.

The article is organized into six sections including this introduction. The second section presents the general overviews and approaches on MAT while the third section presents global and national approaches to minimum alternative tax. The fourth section presents the issues of MAT under Ethiopian tax law. Finally, the fifth section presents Lesson from other jurisdictions and the Need for a Profit-Based Approach in Ethiopia while the sixth sections finalize the paper with the concluding remarks.

2. General Overviews and Approaches on MAT

A MAT is a tax provision that is designed to address the phenomenon of "Reduced/zero-tax companies" or companies that, despite making large amounts of financial profits for their stockholders, wind up owing little or no corporate income tax.[30] This typically occurs by employing legitimate tax exemptions, deductions, and incentives under the tax legislations. The overall goal of an MAT is to give a minimum on the rate of effective taxation so that all profitable firms are contributing a minimum, reasonable share of revenues to the government.[31]

Union; OECD, *Tax Challenges Arising from the Digitalization of the Economy Global Anti-Base Erosion Model Rules (Pillar Two)*, OECD Publishing, Paris, (2021).

[29] OECD, *Tax Challenges Arising from the Digitalization of the Economy, Global Anti-Base Erosion Model Rules (Pillar Two)*, OECD Publishing, Paris, (2021), pp. 7–15.

[30] David Rosenbloom, *supra* note *1*

[31] *Id.*

The general principle of MAT is that a successful business should not be able to avoid paying tax at all.[32] All tax legislations have preferential depreciation allowances, quick-fix capital allowances, or exemptions on particular activities, which could erase the taxable income of an organization, at times even down to zero.[33] Even though the incentives are ordinarily brought in to stimulate investment or other economic activity, they can be utilized in order to achieve a substantial disparity between a company's financial accounting profit and its taxable income. MAT fills the gap by levying tax whenever liability is computed on the basis of an extended measure of income such as book profits or turnover percentage. Taxpayers must work out their tax liability under two systems operating simultaneously: the normal rules of taxation and the rules of MAT.[34] The resulting tax payable is whichever is higher of the two amounts.[35] This "higher of" requirement assures the government at least the minimum set by the MAT, without removing the taxpayer's right to a deduction if his or her ordinary tax liability is higher.[36] Any amount over the MAT is often brought forward as a credit that may be utilized in subsequent years when the ordinary tax liability is higher than the MAT liability. This carry-forward system prevents a business from unfairly being penalized for the payment of MAT and maintains the system a short-term floor and not a long-term tax increase.[37]

There are two general conceptual approaches to imposing a MAT: the profit-based approach and the turnover-based approach.[38] The chosen

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32 OECD, *supra* note *13*
33 *Id.*
34 David Rosenbloom, *supra note 1*
35 *Id.*
36 *Id.*
37 *Id.*
38 *Id.*

method dictates the computation of the minimum tax liability and has far-reaching consequences in terms of the equity, ease, and economic impact of a tax system. The two main approaches on the MAT are presented in the following two sections.

2.1. Profit based approach of MAT

A profit-based approach for a MAT is a conceptual framework that calculates a minimum tax liability on the basis of a firm's financial accounting profit, or "book profit," rather than its taxable income.[39] This approach is rooted in the principle of taxing based on a business's true economic performance and ability to pay. It is designed to counteract tax avoidance and aggressive tax planning. This method is a key part of international tax reform, especially in the OECD's Pillar Two proposal, and is meant to avoid allowing big, profitable corporations to exploit tax loopholes and incentives to wipe their tax liability.[40] The principle is that if a firm is disclosing profits to shareholders and the public, it should at least pay a minimum amount of tax on such profitability. This will in turn ensures a given country to attract foreign directive investment and economic growth as it aligns with the ability to pay principles of international taxation.

Furthermore, the profit-based system aligns with the principle of equity and fairness.[41] This system aligns a company's tax bill with its actual economic performance. It ensures that a low-margin or indeed genuinely loss-running company is not excessively saddled with a bill for taxes it cannot afford. This is in sharp contrast to a turnover tax, which would be

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[39] David Rosenbloom, *supra* note 1

[40] OECD, *supra* note 13

[41] Parthasarathi Shome, Minimum Alternate Tax India Case Study, in Parthasarathi Shome, *Taxation History, Theory, Law and Administration*, Springer, (2021), pp. 217-230

regressive and worst hit in the case of firms with high volumes of sales and very low profitability.[42] Another key benefit of profit-based approach is that it is found to be a good anti-avoidance tool. By using a firm's financial accounting profit as the tax base, it hits at the "gap" that tax incentives and deductions create between a firm's publicly available financial statements and tax return.[43] It works to reduce base erosion and profit shifting (BEPS), enhancing the tax system and its efficiency.

Despite its theoretical virtues, the profit-based approach has weaknesses. Its chief disadvantage is complexity and administrative cost.[44] Determination of "book profit" for tax purposes is more complicated than it sounds. Tax administrations must issue complicated rules in a bid to trace a company's financial accounting profit onto a new, parallel tax base.[45] This involves a number of complex reconciliations, adding some costs and deducting others to ascertain the final taxable base. This complexity has the potential to increase compliance costs for companies and increases the likelihood of disputes with tax authorities, as has been seen in nations like India through its well-established MAT system.[46] In addition, it might not be appropriate for micro- or small-enterprises that don't have the advanced accounting systems needed to report and monitor their book profits.[47]

Notwithstanding with the aforementioned demerits, Profit-oriented approach to a MAT is proved to be a best approach than turnover-

[42] David Rosenbloom, *supra* note 1
[43] *Id.*
[44] OECD, *supra note 13*
[45] David Rosenbloom, *supra* note 1
[46] Parthasarathi Shome, *supra* note 41
[47] *Id.*

oriented approach which makes it the most recognized approach by the domestic tax system of the countries across the globe.[48] The above-mentioned advantage made it the leading system of global minimum tax.[49] The proponents of the turnover tax system claim that it is simple in administration and provides reliable and stable revenue sources; yet the very idea of the turnover tax system is erroneous because of its regressive nature and inherent economic injustice.[50] Since turnover tax is charged strictly on gross sales volume or turnover without taking into account operational expenses, it imposes an unfair charge on businesses that are not making profits or may even face net losses. Thus, turnover system may lead to insolvency of otherwise solvent companies.[51]

Conversely, the profit approach ensures that the corporation's tax obligation is organically linked with the company's financial Profit and its "ability to pay." With respect to the computation of the threshold for the minimum tax based on the "book profit" of the corporation, i.e., the net accounting profits declared to its stockholders, the profit-based system morphs into a very flexible anti-avoidance measure.[52] This measure ensures the preservation of the country's tax base by recapturing the tax revenue that is lost as a result of accounting manipulations and paper-based tax avoidance. The underlying philosophy aligns with the latest large-scale cross-border tax reform efforts, in particular the OECD Pillar Two solution to harmonize tax rights and economic substance so as to prevent international tax evasion

[48] OECD *supra* note 29, pp**.** 7–12.

[49] Reuven S. Avi-Yonah, *supra note 9,* p. 211.

[50] *Id, p.*215.

[51] David K. Amponsah, Turnover Taxation vs. Profit-Based Corporate Regimes in Developing Sub-Saharan Economies, *African Journal of Legal Studies*, Vol. 16, No. 1, (2024), p. 45

[52] Mindy Herzfeld, The Corporate Alternative Minimum Tax and Book Profit: Structural and Legal Anomalies, *Tax Law Review*, Vol. 76, No. 3, (2023), p. 402

and ensure an equitable global tax distribution.[53] Thus, while a profit-based corporate tax framework demands a substantially higher administrative and technological capacity to enforce, its systemic benefits in establishing tax equity, promoting progressive corporate taxation, and systematically discouraging international profit shifting far outweigh its administrative friction, rendering it the only tenable choice for a next-generation taxation system.[54]

B. Turnover-based Approach of MAT

A turnover-based scheme of a MAT is one in which a minimum tax liability is calculated as a proportion of the company's gross annual revenue.[55] The model is in general a simplified, "brute force" ways of making companies pay some tax, particularly where developing economies are involved.[56] It differs radically from the profit-based approach preferred by most developed countries and global tax institutions.

The main merit of a MAT based on turnover is that it is easy and simple to administer.[57] For the taxpayer and the tax authority alike, computation of a gross revenue tax is simple. There are no complex audits required to verify expenses or deductions, and it sidesteps reconciling financial accounting concepts and tax law.[58] This then becomes an effective tool for tax authorities of limited capacity because it discourages audits and

53 OECD *supra* note 29, Article 3.1
54 Reuven S. Avi-Yonah, *supra* note *9*, p. 228
55 Parthasarathi Shome, *supra* note *41*
56 Aqib Aslam and Maria Delgado Coelho, *supra* note *19*
57 Feng Wei and Jean-François Wen, *supra* note 20
58 *Id*.

tax evasion. It also provides a steady source of income for government, as tax is due whether a business makes a profit or not. This is especially beneficial to developing countries that need a steady source of income for public services and infrastructure.[59]

The turnover-based system is heavily flawed on conceptual grounds, most notably regarding its vertical and horizontal inequity. Technically, the tax is regressive in its incidence; by ignoring profit margins, it imposes a disproportionately higher effective tax rate on low-margin enterprises compared to high-margin ones, thereby violating the ability-to-pay principle.[60] Turnover tax is insensitive to a firm's ability to pay, which is a fundamental principle of sound tax policy. It treats a high-turnover, low-margin Company (like a wholesaler) equally with a high-margin firm with identical turnover.[61] It can push genuinely unprofitable firms into insolvency, discouraging investment and economic activity. A turnover tax discourages investment, particularly in new or capital-intensive ventures that tend to operate at a loss for several years before they become profitable.[62] It imposes a direct tax burden that can extend cash flow and negate the intent of tax incentives used to lure such investment. Also, this approach is against international practices, such as the OECD's Pillar Two proposal, which firmly sets a worldwide minimum tax on a company's profits, not revenues.[63] This departure might make a country less attractive for foreign direct investment for seeking a tax system proportionate to international practices.[64]

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[59] Aqib Aslam and Maria Delgado Coelho, *supra* note *19*

[60] Richard Pomp, Re-evaluating Turnover/Gross Receipts Taxes: Their Myths and Their Realities, *Connecticut Journal of International Law*, Vol. 19, No. 1, (2004), p. 1

[61] *Id.*

[62] Parthasarathi Shome, *supra* note *41*

[63] OECD, *supra* note *13*

[64] *Id.*

To wind up these sections, the key distinction between profit-based and turnover-based approaches to MAT is the tax base on which minimum tax liability is calculated. While both are designed to ensure that companies, especially profitable ones, pay a minimum of tax, they operate based on different fundamental principles. Profit-Based method calculates minimum tax in percentage of book profit of a company, i.e., its net profit as reflected in its books of accounts while the turn over based method calculates minimum tax in percentage of gross revenue or turnover of an enterprise. This shows that while profit-based methods align with the ability-to-pay principle by taxing book profits, turnover-based methods prioritize administrative simplicity and revenue stability by taxing gross receipts. However, a strict choice between these two may be insufficient for a developing economy. Many countries have been found to implement a combination of the two systems (hybrid approach) to address their respective weaknesses. Under these systems, presumptive taxation based on turnover is normally applied to small-scale companies with difficulties in maintaining proper accounting records, while large-scale companies use MAT based on profits.

3. Global and National Approaches to Minimum Tax

The modern international taxation system is witnessing a paradigm shift away from the "race to the bottom" and toward a standardized global minimum tax.[65] This section first explores the OECD's Pillar Two framework, which is a profit-based system that ensures multinational entities effectively pay a minimum tax of 15% irrespective of where they operate.[66] To understand how these theoretical global standards

[65] OECD *supra* note 13, p. 15.
[66] OECD *supra* note 29, pp. 7–12.

translate into domestic law, the discussion then transitions to a comparative analysis of Kenya, India, and France. These jurisdictions were specifically selected to provide a spectrum of experiences: Kenya represents the challenges of transitioning from a turnover-based tax to an OECD-aligned model following judicial intervention[67]; India offers a mature, long-standing "book profit" MAT system that balances equity with revenue collection[68]; and France serves as the archetype for mandatory regional implementation through European Union directives.[69] By analyzing these three distinct paths, this section evaluates the evolution of Minimum Alternate Tax (MAT) from a domestic enforcement tool into a sophisticated instrument of global fiscal policy, ultimately assessing the viability and necessary safeguards for adopting such models in developing economies like Ethiopia.

3.1. The OECD Approaches to a Global Minimum Tax

The OECD is an international organization that represents 38 countries and works with governments to construct improved lives for individuals everywhere.[70] One of its crucial roles is to establish and recommend global tax standards. In response to a universal public outcry against multinational companies exploiting loopholes in the law to shift profits into low-tax or no-tax havens something known as Base Erosion and Profit Shifting (BEPS)the OECD launched a project in 2013 with the

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[67] High Court of Kenya, *Export Trading Company Limited & Another v. Kenya Revenue Authority*, Petition No. E181 of 2020, High Court of Kenya, (2023).

[68] Girish Ahuja and Ravi Gupta, *supra* note 27

[69] Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, *Official Journal of the European Union*, L328, (22 December 2022).

[70] OECD, Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy, OECD/G20 Inclusive Framework on BEPS, (8 October 2021), available at www.oecd.org last accessed on 28 may 2026

G20 countries in response to this issue. This led to a two-pillar solution to revolutionize the international tax framework.[71] This policy is a response to decades of "race to the bottom" tax competition, where countries lowered their rates of corporation tax to attract investment at the expense of huge losses in revenue world-wide. The OECD's goal is for MNEs to pay a reasonable rate of tax wherever they are headquartered or doing business.[72]

OECD's global minimum tax strategy, Pillar Two, is a theoretical and analytical consideration of how international tax base erosion can be addressed.[73] It is a coordinated effort that seeks to guarantee that large multinational enterprises (MNEs) pay a minimum level of tax on profits, hence limiting tax competition as well as avoiding profit shifting.[74] This framework sets a global minimum effective tax rate of 15% for large MNEs. The key take away from the OECD approach is its firm commitment to a profit-based model.[75] This demonstrates a global consensus that a fair and effective minimum tax must be linked to a company's actual profitability.

The centerpiece of the OECD's Pillar Two design is a mesh of rules to prevent MNEs from paying profits to tax havens. The two chief mechanisms are the Income Inclusion Rule (IIR) and the Under-taxed Profits Rule (UTPR).[76] The IIR allows a parent country to levy an extra "top-up tax" on the profit of its foreign subsidiaries if that profit is taxed

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71 *Id.*
72 OECD, *supra* note *29*
73 OECD, *supra* note *13*
74 *Id.*
75 *Id.*
76 *Id.*

at an effective rate lower than the 15% threshold.[77] The rule is reserving the parent country's right to recover the extra tax in the first instance. The UTPR is a backstop, allocating the top-up tax to other countries where the MNE has a presence if the IIR cannot be utilized. This dual-track system ensures that if one nation does not tax MNEs at least, then another does.[78]

The other important aspect is the Qualified Domestic Minimum Top-Up Tax (QDMTT), which is a domestic tax applied by a country to capture the top-up tax on low-taxed income of MNEs that operates in the country.[79] The QDMTT gives a country the opportunity to capture the top-up tax themselves rather than allow it to be captured by a foreign taxing authority under the IIR or UTPR. This provides a mechanism through which states can maintain the taxing right for the profits earned in their territories. The OECD approach consequently does not carry with it an explicit mandate of the statutory tax rate of a country but instead prescribes a minimum for the global effective tax rate which MNEs incur.[80]

In nutshell, the OECD profit-based approach is seen by most as a

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77 The critical aspect here is that the 15% minimum rate applies to GloBE income, which is not equivalent to Financial Accounting Profit or Taxable Income according to the local law in Ethiopia. GloBE Income stands for the Global Anti-Base Erosion Income and is quite different from both the financial accounting net income and the local tax legislation. Although Financial Accounting Net Income forms the basis for calculating GloBE Income, it needs to be reconciled with the help of a number of adjustments to achieve consistency across countries. In particular, adjustments for Permanent Differences (e.g., exclusion of specific dividends to avoid double taxation) and Timing Differences (deferred tax accounting based on differences between local tax depreciation and the global one) need to be made.

78 OECD, *supra* note *13*

79 *Id.*

80 *Id.*

significant step forward in international tax cooperation.[81] Its strongest aspect is its focus on equity. Focusing on profits ensures that firms with an actual ability to pay their fair share, wherever they may be, do so. It addresses the BEPS issue at its core and puts a floor under tax competition, which tends to be a race to the bottom.[82] The approach is not, though, critic-proof. Its most significant failing is complexity.[83] The mechanism for calculating GloBE income and covered tax is a bureaucratic chore for businesses as well as tax authorities.[84] Most notably, there are concerns that the 15% base rate will be inadequate and that the system will not be entirely fair to developing nations, who will lose their ability to use tax incentives as an incentive for foreign investment.[85]

Despite the above critics, the OECD Pillar Two framework is still remains critically important globally as it establishes a 15% global minimum tax on Multinational Enterprises (MNEs), aiming to put a definitive floor on predatory international tax competition and curtail Base Erosion and Profit Shifting (BEPS).[86] While Alternative Minimum Taxes (AMTs) have other historical global precursors such as the domestic minimum corporate taxes traditionally levied by individual nations the OECD's Global Anti-Base Erosion (GloBE) architecture

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[81] *Id.*
[82] *Id.*
[83] PwC, *OECD Pillar Two GloBE Consolidated Commentary & Examples*, Tax Policy Bulletin, (25 April 2024), available at https://www.pwc.com/gx/en/tax/newsletters/tax-policy-bulletin/assets/pwc-oecd-pillar-two-globe-consolidated-commentary.pdf last accessed on 23 August 2025
[84] *Id.*
[85] *Id*
[86] Maarten van 't Riet and Arjan Lejour, Base erosion and profit shifting after Pillar Two: Evaluating the 15% global minimum tax on multinational enterprises, *International Tax and Public Finance*, Vol. 32, No. 2, (2025), p. 348

represents the first interconnected, multilateral minimum tax regime.[87] Many developed and emerging jurisdictions have incorporated this framework directly into their national legal systems by implementing the Income Inclusion Rule (IIR) or a Qualifying Domestic Minimum Top-up Tax (QDMTT) to ensure that untaxed or under taxed domestic profits are captured at home rather than surrendered as "windfall" revenues to foreign jurisdictions.[88] However, whether this system is fundamentally tenable for developing nations remains highly contentious.[89] As the GloBE rules feature a high scope threshold applying strictly to MNEs with annual consolidated revenues exceeding €750 million, most domestic and smaller foreign corporations in developing countries escape its purview entirely, meaning standard corporate tax evasion remains unaddressed by the model.[90]

Furthermore, developing countries are more exposed to international tax avoidance but less likely to possess advanced tax administration systems needed to administer such technologically intensive and data-intensive regimes.[91] Therefore, in order for a developing nation like Ethiopia to implement this system without risks to its economic interests, there are several key precautions need to be taken by them. First of all, the country needs to audit its system of bilateral double taxation treaties to detect "potentially aggressive" provisions which would reduce its

[87] P. Bachas, R. Fisher, and J. E. Lopez-Cordova, The Limits of Global Minimum Taxes in Developing Economies: High Scope Thresholds and Corporate Tax Evasion, *Journal of Development Economics*, Vol. 168, No. 1, (2024), p. 105

[88] M. Auclair, *Implementing the GloBE rules: The role of Income Inclusion Rules (IIR) and Qualifying Domestic Minimum Top-up Taxes (QDMTT) in protecting domestic tax bases*, OECD Publishing, (n.d.), p. 14

[89] Priyadarshi Dash and Arpit Barman, *Evaluating the Discursive Tensions of the GloBE Rules in South Asian Economies*, RIS Working Paper Series, (n.d.), p. 8

[90] P. Bachas, R. Fisher, and J. E. Lopez-Cordova, supra note 86, p.112

[91] Julian Roberts and Mike Hough, Public Opinion and the Jury: An International Literature Review, Ministry of Justice Research Series 1/09, (2009), p. 42

domestic tax revenue. Second, the technical capabilities of the Ministry of Finance and the Ministry of Revenues to administer automatic exchange of international tax information needs to be built quickly; and finally, its tax incentives (such as holiday zones) need to be adjusted into "carve-out" structure.[92]

Finally, while the OECD Pillar Two regime represents a common international standard, it is not a standard that eliminates the element of national policy discretion.[93] The member jurisdictions have significant freedom of action in deciding whether and how to implement the GloBE provisions into their respective domestic legal frameworks, taking into account the minimum standard that has been set out.[94] They could choose to adopt a QDMTT provision ahead of the IIR provision, design legislation for the implementing measures, give administrative guidance in line with domestic legal tradition, and coordinate the implementation based on their particular fiscal needs and capacity.[95] It means that the OECD model framework should not be viewed as an automatic transplantation of the international provisions into the domestic framework, but as a harmonized framework allowing countries to make relevant legislative and administrative choices in pursuit of the common goal of tackling BEPS issues.[96]

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92 Maarten van 't Riet and Arjan Lejour, *supra* note 85,p.348

93 OECD, *supra* note 29, pp. 9–10

94 OECD, *Tax Challenges Arising from the Digitalization of the Economy, Administrative Guidance on the Global Anti-Base Erosion Rules (Pillar Two)*, OECD/G20 Inclusive Framework on BEPS, (2023), pp. 5–7

95 OECD, *Tax Challenges Arising from the Digitalization of the Economy, Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two)*, OECD Publishing, (2022), paras 68–72

96 Allison Christians, The Global Minimum Tax: A Solution in Search of a Problem? National Tax Journal, Vol. 75, (2022), pp. 421–423.

3.2. Experiences of Selected Jurisdictions on MAT

The concept of Minimum Alternative Tax (MAT) has evolved considerably across jurisdictions, based on differences in policy objectives, stages of economic development, and capabilities to administer.[97] Despite the common initial policy goal of ensuring that profitable corporations pay some minimum tax irrespective of any deduction, exemption, and/or incentive, countries developed various strategies in trying to achieve the set objective.[98] In particular, while some countries opted for turnover-based minimum taxes because of its easy administration, other nations developed profit-based systems that were supposed to make sure that the tax burden would be commensurate with the economic capacity of taxpayers.[99] More recently, the emergence of the global minimum tax under the OECD/G20 Pillar Two initiative represents a recent evolution in the realm of minimum taxation.[100] In order to assess the viability of the new MAT system introduced in Ethiopia, it is necessary to examine the experiences of jurisdictions that have adopted different minimum tax models.

The three jurisdictions chosen in this context include Kenya, India, and France. The significance of each country lies in the fact that the approaches used in them can serve as useful lessons for Ethiopia. First of all, the choice of Kenya was based on the fact that it had enacted a turnover-based minimum tax system similar to the one in Ethiopia but

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[97] OECD, Corporate Tax Statistics 2024, OECD Publishing, Paris, (2024), pp. 83–95; IMF, Tax Policy for Developing Countries, IMF Policy Paper, Washington D.C., (2019), pp. 12–17.

[98] Reuven S. Avi-Yonah, *supra* note *9,* pp. 89–110

[99] Victor Thuronyi (ed.), Tax Law Design and Drafting, Vol.1, International Monetary Fund, Washington D.C., (1996), pp. 365–382

[100] OECD, *supra* note 29

had later abolished it after some constitutional litigation.[101] The reason behind the choice of India is that it has an advanced and established book profit MAT system compared to other developing countries.[102] Lastly, the selection of France was because it is an example of the GloBE income-based OECD two-pillar model enacted through the EU minimum tax directive.[103]

The experiences of these jurisdictions are reviewed from three angles. To begin with, the paper reviews the design of the law in the respective jurisdictions together with the tax base employed. In other words, it looks at whether the minimum tax system employed uses turnover, book profit, or modified profit as the tax base. Secondly, it reviews how well the system aligns with the concepts of equity, fairness, and ability to pay. Finally, it assesses the economic implications of the respective systems, including their potential effects on investment, business growth, and revenue mobilization. Through this comparison, the paper highlights some lessons that may prove helpful to Ethiopia regarding the sustainability and fairness of its turnover-based MAT. The detail discussion of each jurisdiction is presented as follows:

3.2.1. Kenya

Kenya introduced a minimum tax for the very first time in the Finance Act, 2020, to take effect from January 1, 2021.[104] The tax was to be a

[101] Law Society of Kenya vs. Cabinet Secretary for the National Treasury & Planning and Kenya Revenue Authority, High Court of Kenya, Petition No. E005 of 2021, Judgment delivered on 20 September 2021

[102] Girish Ahuja and Ravi Gupta, *supra* note 27 pp. 1254–1286.

[103] Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, Official Journal of the European Union, L 328, (22 December 2022), Articles 1–55

[104] Kenya Revenue Authority, Guidelines on Minimum Tax, Kenya Revenue Authority,

flat rate of 1% of turnover of a business, regardless of its profitability.[105] Its primary aim was to combat tax avoidance and evasion by firms that still recorded losses to avoid paying corporate income tax (CIT).[106] The government asserted that this would have all firms, including those making minimal or zero profits, pay a minimum amount to national coffers. The tax was payable quarterly on the 20th day of the fourth, sixth, ninth, and twelfth months of the accounting year.[107]

However, this tax faced strong opposition and was challenged in court. The High Court subsequently the Court of Appeal subsequently ruled that the Minimum Tax was unconstitutional, primarily because it violated the doctrine of equity in taxation and the right to property.[108] In the landmark case of *Stanley Waweru& 6 Others versus the National Assembly & 2 Others*[109], the judiciary of Kenya has put forward a strong stand for equity doctrine and property rights, stating that the imposition of gross turnover tax without any deduction for expenses and cost incurred is an unfair imposition of tax, resulting in an unequal burden on the taxpayer. The court reasoned that by ignoring actual profitability, the tax failed the test of vertical equity by treating businesses in profit and those in loss as financially identical, effectively forcing distressed entities to settle tax liabilities out of their core capital. This was characterized as an arbitrary deprivation of property, as it compelled the

(January 2021), available at https://www.kra.go.ke/images/publications/Minimum-Tax-Guidelines.pdf last accessed on 23 August 2025

105 *Stanley Waweru & 6 Others v National Assembly & 2 Others*, Constitutional Petition No. E005 of 2021, High Court of Kenya at Machakos, [2021] eKLR, (20 September 2021)

106 Kenya Revenue Authority, Guidelines on Minimum Tax, Kenya Revenue Authority, (January 2021), available at https://www.kra.go.ke/images/publications/Minimum-Tax-Guidelines.pdf last accessed on 23 August 2025

107 *Id.*

108 *Stanley Waweru & 6 Others v National Assembly & 2 Others*, Constitutional Petition No. E005 of 2021, High Court of Kenya at Machakos, [2021] eKLR, (20 September 2021)

109 *Id.*

diminution of assets to meet a levy that did not originate from actual income.[110] This judicial defeat led to suspension and eventual repeal of this minimum taxing system.

Following this court defeat, Kenya has aligned its tax policy to the OECD/G20 Inclusive Framework on BEPS Pillar Two.[111] The Pillar Two rules, which introduce a global minimum corporate tax of 15%, are the basis for Kenya's new policy. Accordingly, in late 2024, Kenya introduced a new domestic minimum top-up tax through legislative amendments.[112] The new tax, effective as of January 1, 2025, is levied on MNEs with a consolidated annual turnover of at least €750 million. This tax is a straight application of the OECD's Pillar Two Globe guidelines, which are aimed at making sure large multinational companies (MNEs), pay a global minimum effective tax rate of 15% for profits made in any given jurisdiction where they operate.[113] The new tax that adopted the profit-based approach replacing turnover-based approach ensures that MNEs are liable for a minimum effective tax rate of 15% on their Kenyan income.[114] This transition from a broad, domestically-focused turnover tax to an internationally-aligned, MNE-targeted regime demonstrates the profound impact of judicial review on tax policy. The Kenya experience offers a direct legislative and judicial

[110] Stanley Waweru & 6 Others vs. The National Assembly & 2 Others, Constitutional Petition No. E005 of 2021 (Consolidated with Petition No. 1 of 2021), High Court of Kenya at Machakos, [2021] eKLR, (20 September 2021)

[111] *Id.*

[112] EY, Kenya enacts domestic minimum top-up tax, *EY Global Tax News*, (4 March 2025), available at https://www.ey.com/en_gl/technical/tax-alerts/kenya-enacts-domestic-minimum-top-up-tax last accessed on 23 August 2025

[113] *Id.*

[114] OECD, *Tax Challenges Arising from Digitalization – Report on Pillar Two Blueprint: Inclusive Framework on BEPS*, OECD Publishing, (2020), available at https://doi.org/10.1787/abb4c3d1-en last accessed on 28 June 2026

precedent and shows that a minimum tax on turnover, no matter how administratively simple can be legally and constitutionally flawed if it is not perceived as being fair or equitable to the business community.[115]

As compared to the previous turnover-tax regime system, this new system is specifically targeted at large MNEs with consolidated turnover of at least €750 million in two or more of the preceding four years.[116] The tax is "top-up" in nature, i.e., it only applies if an MNE's effective rate of taxation in Kenya is below the minimum of 15%. This new policy is a distinct policy aim. It is not a broad tax on all businesses in the home country but, instead, a precise action to reclaim taxing rights over the under-taxed profits of large global firms, in alignment with worldwide actions to combat base erosion and profit shifting.[117]

3.2.2. India

India's Minimum Alternate Tax (MAT) is a conceptual solution to the issue of "zero-tax companies," which were profitable companies with substantial profits on their books and offering dividends but hardly any or no income tax. This has been possible due to the different incentives, exemptions, and deductions offered by the Income Tax Act, 1961.[118] The Indian approach towards MAT is a pragmatic one with the aim of

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[115] IPF Global, Is a Minimum Tax Still a Viable Option for Kenya?, IPF Global, (January 2025), available at https://ipfglobal.or.ke/wp-content/uploads/2025/01/IS-A-MINIMUM-TAX-STILL-A-VIABLE-OPTION-FOR-KENYA.pdf last accessed on 23 August 2025

[116] EY Global, Kenya Enacts Domestic Minimum Top-Up Tax, EY Global Tax Alerts, (19 December 2024), available at www.ey.com/en_gl/technical/tax-alerts/kenya-enacts-domestic-minimum-top-up-tax last accessed on 23 August 2025

[117] *Id.*

[118] The Income-tax Act, 1961, Act No. 43 of 1961, (1961), Section 115JB, available at https://incometaxindia.gov.in/documents/income-tax-act-1961-amended-by-finance-act-2024.pdf last accessed on 23 August 2025

ensuring that all profitable businesses pay at least some tax to the national exchequer so that the tax base is broadened and tax equity is ensured.[119] It acts as a base for corporate taxation, requiring companies to pay the higher of their regular tax liability or the tax calculated under the MAT provisions.[120]

Indian MAT applies only to resident companies and foreign companies with a permanent place of establishment in India. It has been subjected to legislative changes since its initial enactment in 1987.[121] The initial version, as per Section 115J, was later repealed and later reenacted in 1996 as per Section 115JA. The current and advanced regime under Section 115JB was introduced in 2000 and has since undergone various rate and procedural modifications to improve its efficiency.[122] These refinements represent a continued effort by the government of India to refine the tax regime to prevent corporate tax avoidance without creating any substantial disincentive for investment.[123]

Current MAT regime is dealt with under Section 115JB of the Income Tax Act, 1961.[124] India's MAT is a robust and mature model that avoids the equity issues of a pure turnover tax. The key to the Indian MAT regime is identification of the tax based on "book profit" of a company.

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119 Mohammed S. Chokhawala, Minimum Alternate Tax(MAT) : Eligibility and Calculation, ClearTax, (7 February 2026), available at https://cleartax.in/s/tax-planning-under-mat last accessed on 28 June 2026

120 Parthasarathi Shome, *supra* note *41*

121 Taxmann, Minimum Alternate Tax (Time To End?): An Assessment, *Taxmann*, (30 Nov, 2020), available at https://www.taxmann.com/research/income-tax/top-story/105010000000018803/minimum-alternate-tax-time-to-end-an-assessment-experts-opinion last accessed on 23 August 2025

122 *Id.*

123 *Id.*

124 The Income-tax Act, 1961, Act No. 43/1961, Gazette of India, (1961), Section 1

It is a conceptual difference of significant importance from traditional tax calculation, which is on the "taxable income" basis. Book profit is the net profit as shown in the profit and loss account of a company in accordance with the Companies Act with certain adjustments. These are the adjustments brought about by including items like income tax paid, provision for deferred taxes, and tax-exempt income-like expenses, and excluding items like exempt income and brought-forward losses or unabsorbed depreciation. The current MAT rate is 15% of the book profit (inclusive of any surcharge and cess that may apply).[125]

Indian MAT is based upon the comparison of two different tax calculations.[126] The tax liability of a firm is calculated on a higher level as the bigger of its normal tax liability (on taxable income) or the MAT liability.[127] The MAT is calculated at a rate of 15% of the company's "book profit". Book profit has been accordingly defined as net profit disclosed in the company's profit and loss account, after making certain add-backs and adjustments for things like deferred tax and exempted income.[128]

Another fundamental component of India's MAT regime is the MAT credit mechanism. This provision seeks to avoid companies being unfairly penalized for paying MAT in a year where their normal tax charge is small.[129] Whenever a firm pays MAT, the amount so paid

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[125] Bajaj Finserv, Minimum Alternate Tax (MAT): Meaning, Calculation & Eligibility, *Bajaj Finserv Insights*, (6 August 2025), available at https://www.bajajfinserv.in/minimum-alternate-tax-mat last accessed on 23 August 2025

[126] Mohammed S Chokhawala, *Minimum Alternate Tax (MAT): Eligibility and Calculation*, Clear Tax, (7 February 2026), available at https://cleartax.in/s/tax-planning-under-mat last accessed on 28 June 2026

[127] *Id.*

[128] *Id.*

[129] Anshul Gupta, Section 115JB: 2023-24 Guide on Section 115JB of the Income Tax Act,

over and above its normal tax liability is treated as a credit which can be carried forward for 15 years.[130] This credit can be applied to offset future normal tax liability in years when the firm's normal tax is above its MAT liability. This system in effect transforms the nature of the tax from its possible character as a capital confiscation into an advance payment of future taxation.[131] It compels firms to pay a minimum tax during boom times while avoiding the penalization impact on genuinely loss-making firms as seen in the case of Kenya. India's approach demonstrates that it is possible to achieve equilibrium between the objectives of tax certainty and fairness, if at the expense of a more complex administration system.

While effective as a revenue floor, the system faces significant scholarly criticism for creating an "incentive paradox" by nullifying the very tax holidays the state provides to encourage specific economic behaviors.[132] The practical application of the tax scheme has suffered from expensive compliance costs because of the need for dual accounting involving the matching of "book profits" as required by the Companies Act and tax computations, as well as frequent legal battles, including the infamous 2015 dispute regarding the incorrect application of MAT to foreign institutional investors (FIIs).[133] Thus, recent changes in the law, including the new 22% corporate tax regime under Section 115BAA, provide companies with an escape from the MAT system at the expense of giving up special deductions.[134]

Wint Wealth, (23 August 2025)

[130] *Id.*

[131] *Id.*

[132] The Income-tax Act, 1961, Act No. 43 of 1961, Gazette of India, (1961), Section 115JB

[133] Parthasarathi Shome, *supra* note 41, pp. 142–45

[134] Castle Hacketts Ltd. v. Commissioner of Income Tax, (2015) 374 ITR 330, Authority for Advance Rulings (AAR) – New Delhi, India

3.2.3. France

France's Minimum Alternative Tax (MAT) is not an entirely autonomous domestic tax policy but rather constitutes the national implementation of the internationally harmonized minimum taxation framework established under the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS)[135], and subsequently incorporated into European Union law through the Minimum Tax Directive.[136] The Directive obliges all EU Member States to implement the Global Anti-Base Erosion (GloBE) Rules while allowing them a degree of discretion regarding the legislative techniques, administrative arrangements, enforcement mechanisms, compliance procedures, and certain policy choices necessary to accommodate their respective constitutional, legal, and fiscal systems. Consequently, France's MAT regime reflects a combination of supranational harmonization and national legislative autonomy through its domestic implementing legislation.[137]

To make it more clear, the France’s policy is mandatory in scope as a result of its membership in the European Union (EU) and adherence to the OECD/G20's Pillar.[138] As a member of the European Union, France

[135] OECD *supra* note 29, pp. 7–15.
[136] Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, *Official Journal of the European Union*, L 328, (22 December 2022), Recitals 3–8 and Articles 1–3.
[137] France, Finance Act for 2024 (Law No. 2023-1322 of 29 December 2023)**,***Official Journal of the French Republic*, (30 December 2023), implementing Council Directive (EU) 2022/2523 on the global minimum level of taxation
[138] Council Directive (EU) 2022/2523, on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, Official Journal of the European Union, L 328, (14 December 2022), p. 1, available at https://eur-

has maintained the Council Directive (EU) 2022/2523, which implements the OECD/G20 Pillar Two rules into national law.[139] Accordingly, France applies directly the minimum tax policy of Council Directive (EU) 2022/2523, which constitutionally binds EU member states to include the Pillar Two rules in their national law.[140] The objective is to address the tax challenges stemming from the digitalization of the global economy and to prevent base erosion and profit shifting (BEPS), a technique by which MNEs leverage tax systems to shift profits in an artificial manner to low- or no-tax jurisdictions.[141]

This system, which is effective from income years that start after Dec. 31, 2023, is differs in quality in terms of size and purpose from the Indian and Ethiopian ones. It is directed towards large MNEs with revenues of €750 million or greater on a consolidated annual basis. It is based on three basic rules.[142] The first rule is Income Inclusion Rule (IIR). This fundamental rule allows France to tax its resident MNEs with an upward tax in case the profits of their foreign subsidiaries are taxed below 15% effective rate in the respective jurisdiction. This pushes the low-taxed profits up to the minimum threshold at the parent company level of the MNE. The second rule is Qualified Domestic Minimum Top-Up Tax (QDMTT). This optional regulation that France has chosen to implement, allows the country to charge a top-up tax on under-taxed profits from operations by MNEs in France itself.[143] In so

lex.europa.eu/eli/dir/2022/2523/oj/eng last accessed on 28 June 2026

139 *Id.*

140 *Id.*

141 OECD, *supra* note *29*

142 *Id.*

143 *Id.*

doing, France retains taxing rights on its own territory so that the revenue stays within the country instead of being remitted by another country's IIR. The third rule is under taxed Profits Rule (UTPR). The UTPR is an alternative or "backstop" rule, to be applied from 2025. It operates if no IIR is in place for an under-taxed in an MNE group.[144] The UTPR allows a host country, like France, to deny deductibility or require a payment that makes the effective top-up tax on the under-taxed profits so that the 15% limit is always met.

The OECD model has also been criticized by some scholars as placing disproportionately high efficient use of tax incentives as a tool to attract foreign direct investment.[145] The OECD model, to which France is a party, has been assailed on the basis that it may impose too high administrative burdens on developing nations and may render it hard for them to use tax incentives as a device for luring foreign direct investment.[146] From this perspective, while the French model is appropriate to a developed economy with sophisticated tax administration, it may not be an appealing or realistic choice for a developing economy like Ethiopia.

The French strategy is conceptually different from a domestic MAT such as that of Ethiopia. Whereas the policy of Ethiopia seeks to widen its domestic tax base through a guarantee that all enterprises, whether profitable or otherwise, will contribute to the state coffers, the policy of France is externally motivated and aimed at stemming international

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[144] *Id.*

[145] Annet W. Oguttu, Preventing International Tax Competition and the Race to the Bottom: A Critique of the OECD Pillar Two Model Rules for Taxing the Digital Economy – A Developing Country Perspective, *Bulletin for International Taxation*, Vol. 76, No. 10/11, (2022), pp. 547-565

[146] *Id.*

profit shifting by a certain category of large MNEs. The French model is part of an integrated worldwide effort to provide a level playing field, and a domestic MAT is meant to promote a country's domestic tax collection and tax-to-GDP ratio.[147]

4. Minimum Alternative Tax (MAT) Under Ethiopian Law

The MAT under Ethiopian tax system is the recent development that introduced by the income tax amendment of 2025.[148] The Ethiopian government has introduced a (MAT) as part of its key fiscal Policy reform. This will be used to ensure all businesses contribute to government treasuries, whether they have made a profit or loss during the year.[149] This strategy is an immediate reaction to Ethiopia's notoriously low tax-to-GDP ratio, which stood at a mere 7.5% in 2022/23, falling significantly short of the 15% minimum recommended by the International Monetary Fund (IMF).[150] The tax-to-GDP rate of the nation has been one of the lowest in the sub-Saharan area. The new MAT, charged at 2.5% of turnover per year, is designed to broaden the tax base so that all enterprises, including those that record minimal or no profits, contribute a small amount of tax to the state treasury and raising domestic revenue to fund public spending and cut dependence on

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[147] BDO, *France - Finance Bill 2024 Includes Implementation of EU Minimum Tax Directive*, (2023), available at https://www.bdo.global/en-gb/insights/tax/world-wide-tax/france-finance-bill-2024-includes-implementation-of-eu-minimum-tax-directive last accessed on 23 August 2025.

[148] Federal Income Tax (Amendment) Proclamation, Proclamation No. 1395/2025, *Federal NegaritGazetta*, 2025, Article 23 (Here in after called proclamation No. 1395/2025).

[149] Addis Standard, Ethiopia's Tax-to-GDP Ratio Falls Sharply, New Study Warns, *Addis Standard*, (16 August 2025), available at https://addisstandard.com/ethiopias-tax-to-gdp-ratio-falls-sharply-new-study-warns/ last accessed on 23 August 2025

[150] *Id.*

foreign aid.[151] It also looks to close the gap in tax revenue by targeting areas of "aggressive tax avoidance and evasion" and making sure that even loss-making enterprises contribute at least something towards the national tax base.[152]

The theoretical foundation of Ethiopia's MAT is to address the issue of businesses that, due to considerations such as favorable tax incentives, real losses, or tax aggressive avoidance, report minimal or no taxable income.[153] The MAT as envisaged under the Income Tax Amendment proclamation is a uniform rate tax levied on a business's gross turnover, or revenue, rather than its net profits. Article 23 of the amendment proclamation provides that ‘‘Notwithstanding any provision in this Proclamation or any other law, where in a year of assessment the total assessable profits from all sources of business income of a body or a person result in tax payable below 2.5 % of the turnover in the same tax year, the taxpayer shall pay a minimum tax at a rate determined under sub-Article 2’’.[154] Sub-article 2(a) of the same article provides that the minimum tax under this Article shall be tax at a rate of 2.5%of the turnover of a body or person.[155] From this article, it is clear that MAT is calculated on the basis of the annual turnover of a company at a uniform rate of 2.5%.This is a simple, turnover-based approach. This is for taxpayers where income tax liability computed on regular provisions is lower than what is worked out under the MAT.

The primary adaptation with the MAT is the new taxpayer classification

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[151] See the preamble and article 23 of Proclamation No. 1395/2025.
[152] See the preamble of Proclamation No. 1395/2025
[153] HST, Income Tax Update, (17 July 2025), available at https://www.hst-et.com/insights/insight-detail/income-tax-update last accessed on 23 August 2025.
[154] See article23 (1) of Proclamation No. 1395/2025
[155] See article 23(2(a) of Proclamation No. 1395/2025

system. The former three-tiered (Category A, B, and C) has been compressed into two classes. Accordingly, anybody or any other person whose turnover for the year is more than ETB 2,000,000 are Category A tax payer while persons whose turnover for the year is less than ETB 2,000,000 is Category B tax payers.[156] Such classification is pertinent in the sense that it will set the limits of the MAT, which applies to Category A taxpayers. Ethiopia's MAT differs vastly from minimum tax regimes of certain developed economies, like France, that are primarily aimed at MNEs under a global taxation regime. Ethiopia's framework is built around a domestic revenue mobilization agenda. It aims at various types of taxpayers and not just large MNEs.[157] The policy objectives are derived from a broader economic reform agenda to finance development and attain fiscal balance.[158] This approach has been aimed at its own individual developmental needs rather than a complex global tax harmonization system.[159]

However, there are certain provisions made by the law for special "cases" where the tax base is determined differently, or where some taxpayers may be excluded from taxation altogether. The Proclamation and its explanatory notes highlight various special categories that qualify for favorable treatment when it comes to the imposition of the

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[156] See article 3 of Proclamation No. 1395/2025

[157] Dablo Law Firm, *What's Changed Under Ethiopia's New Income Tax Amendment Proclamation No. 1395/2025?*, (25 July 2025), available at https://dablolawfirm.com/whats-changed-under-ethiopias-new-income-tax-amendment-proclamation-no-1395-2025/ last accessed on 23 August 2025.

[158] Ethiopian News Agency (ENA), Gov't of Ethiopia Committed to Effectively Collect Revenues in Modernized System, (9 August 2024), available at https://www.ena.et/web/eng/w/eng_4943460 last accessed on 23 August 2025

[159] Addis Standard, Ethiopia's Tax-to-GDP Ratio Falls Sharply, New Study Warns, *Addis Standard*, (16 August 2025), available at https://addisstandard.com/ethiopias-tax-to-gdp-ratio-falls-sharply-new-study-warns/ last accessed on 23 August 2025.

2.5% MAT. First of all, there are financial institutions like banks and insurance that do not pay 2.5% MAT on their total income but on their net banking income and gross premiums.[160] The primary justification for these special treatments is the preservation of business viability and economic fairness.[161] For entities like banks and insurance firms, "turnover" is not a standard metric of performance in the same way it is for retail; thus, net income and gross premiums provide a more accurate reflection of their economic capacity.[162]

The other special case is related to Price-Regulated Entities.[163] Companies that have prices or margin profits regulated by lawfully recognized authorities or by contract such as petroleum sellers or particular types of agents whose commission is fixed pay taxes based on commission or margin profits instead of the total sales revenue. The justifications for this special treatment are that calculating tax on total turnover would be confiscatory because these businesses often operate on fixed, narrow margins (sometimes as low as 4%) that cannot absorb a 2.5% tax on gross sales without resulting in a net loss.[164] Again, the other special case is related to Insolvency and Restructuring.[165] Those that are being liquidated, declared bankrupt through court, or having their debt restructured are excluded from paying the MAT. Exclusion of those companies that are in the process of liquidation or bankruptcy is justified on the grounds of the principle of insolvency protection.

[160] Income Tax Amendment Proclamation No. 1395/2025, Fed. Negarit Gazeta Extraordinary (July 2025); Ministry of Finance Explanatory Note (2025), Section 4.1.

[161] Ministry of Finance, *Policy Justification for Tax Amendments 1395/2025* (White Paper), (2025)

[162] *Id.*

[163] Federal Income Tax (Amendment) Regulation No. 540/2025; KPMG Ethiopia Tax Alert (January 2026).

[164] *Id.*

[165] Proclamation No. 1395/2025, Article 23(5)

Imposing a tax on such entities will only cause them to become insolvent much faster.[166]

Furthermore, another area where special treatment applied is related to Investment Incentive Beneficiaries.[167] Although MAT is normally applicable to taxpayers who have enjoyed investment incentives, taxpayers who at present are entitled to full exemptions on their income through investment policies shall not be obliged to pay MAT throughout the period that they receive such exemption. The major reason for the exemptions on MAT from investment incentives is that this honors the government's previous promises made to encourage both foreign and local investments despite the new application of MAT.[168]

Finally, small taxpayers (Category B) are not subjected to minimum alternative taxes.[169] The taxpayer with an annual turnover less than 2 million ETB that uses the gross revenue method for computing their taxes is not considered in the MAT system, since such taxpayers fall under the presumptive taxation system.

5. Lesson from other jurisdictions and the Need for a Profit-Based Approach in Ethiopia

As it has been mentioned in other parts of the paper, the three countries that selected for comparison has good experiences on the integration of

[166] Proclamation No. 1395/2025, Article 23(5); Ethiopian Board of Accountancy (EBA) Guidelines on MAT Compliance (2025)

[167] Investment Board Directive No. 102/2025; Deloitte Ethiopia Tax Guide 2026

[168] Ethiopian Investment Commission (EIC), *Annual Report 2025*, Addis Ababa, (2025): *Investment Proclamation*, Proclamation No. 1180/2020, Federal Negarit Gazetta, (2020), Article 12

[169] See article 23 and 50 of Proclamation No. 1395/2025

MAT to their domestic law. The three comparative models pinpoint an overarching policy trilemma in designing a minimum tax: administrative simplicity, equity, or global alignment. Ethiopia's new MAT, like Kenya's ill-fated experiment, has opted for a system based on turnover.[170] Its primary benefit is that it is administratively straightforward and an easy tool that is difficult for a taxpayer to manipulate, and therefore the government has stable and certain revenue. But with a steep cost of equity, a turnover -based tax is disproportionately burdensome on low-margin or loss-making firms and may force them to pay tax from their capital, a situation that led Kenya's constitution to invalidate its law.[171] Kenya's initial effort at a turnover-based minimum tax was declared unconstitutional by its High Court for ignoring the principle of equity and the right to property, a decision which is a powerful legal warning to Ethiopia.

The constitution of Kenya promulgated in 2010 clearly indicates that the tax burden should be shared equitably through Article 201(b) (i).[172] In contrast, the FDRE Constitution indirectly addresses this issue through Article 100(1)[173], where it associates taxation authority with the "taxable capacity" of individuals, an approach that is challenged by the implementation of MAT on the basis of the turnover of businesses that do not have the capability to finance such taxes without depleting their investment capital. While there is no ruling from any Ethiopian court as to whether the tax is constitutional or not, the use of a turnover basis for taxing gives rise to constitutional issues. It is possible that Article

[170] See article 23(1) of Proclamation No. 1395/2025.

[171] *Stanley Waweru and Six Others v. The National Assembly and Others*, Constitutional Petition No. E005 of 2021, High Court of Kenya at Nairobi, (20 April 2021), [2021]

[172] Constitution of Kenya, Art. 201(b)(i) (2010)

[173] The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Federal Negarit Gazetta, (1995), Article 100(1), [hereinafter FDRE Constitution]

100(1), which calls for the imposition of the tax according to the ability of the taxpayer to pay, may form the basis of future constitutional challenges where there are genuine losses. Furthermore, another reason why one may consider MAT unconstitutional lies in the fact that because of the application of this tax in terms of gross revenue and not net profit, it may be interpreted that the state contravenes article 89(1) of the Constitution for not ensuring that the country's economy is not adversely affected.[174]

In a similar vein, again from the point of view of a rights-based approach, the MAT can be criticized based on considerations of equity, property, and procedural rights. As far as Article 25 of the constitution is concerned, one of its criteria for assessing an equitable tax is the "ability-to-pay" test, and hence the proposed measure violates it by imposing an equal percentage on all regardless of their profit margins.[175] Such tax could also be considered discriminatory against companies operating with lower profit margins. Again, if the levy exceeds a business's net margin, it risks becoming a confiscatory seizure of capital in violation of the right to property under article 40.[176] Additionally, if the tax is applied automatically without allowing for audited proof of genuine losses, it may infringe upon the right to access to justice and administrative fairness guaranteed by article 37.[177]

On the basis of the aforementioned justifications, the lesson for Ethiopia is that, though turnover-based MAT is administratively simple, there is a need to shift to profit based approach so that tax system will be

[174] FDRE Constitution, Article 89(1)
[175] FDRE Constitution, Article 25
[176] FDRE Constitution, Article 40
[177] FDRE Constitution, Article 37

predictable, and fair that is necessary for foreign direct investment (FDI) inflows and integration into the global economy. Ethiopia's turnover-based approach and India's profit-based approach offer different models, and Ethiopia can learn valuable lessons from India's experience. India has highly developed MAT regime, calculated on a company's "book profit" with an advanced credit mechanism that illustrates a more equitable and legally sounder model.[178] Ethiopia can take lesson that while a turnover-based system is more convenient to administer to some small domestic enterprises, it is a strong disincentive to large-scale, capital-intensive foreign investors. Accordingly, Ethiopia needs to implement a tiered tax system under which both foreign companies and large domestic companies are taxed under a profit-based approach. This will be consistent with international practice and more attractive to foreign investors.

Furthermore, France's move to implement the OECD/G20 Pillar Two model asserts an international, rules-based approach that fundamentally differs from Ethiopia's domestically focused revenue-driven model. France's ETR-based method, adopted from the OECD model, is the most advanced one, as it entails advanced computations on a jurisdictional basis and high international collaboration.[179] Even though it is the best countermeasure to profit shifting by MNEs, it is not suitable for small-to-medium enterprises' domestic tax base issues which are the central issue of Ethiopia. But there are lessons to be learned from adopting a profit-based system of taxation, which can prove more effective in attracting foreign direct investment (FDI) than a turnover-

[178] Parthasarathi Shome, *supra* note *41*

[179] Council Directive (EU) 2022/2523, on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, Official Journal of the European Union, L 328, (2022), Article 1, available at https://eur-lex.europa.eu/eli/dir/2022/2523/oj/eng last accessed on 28 June 2026

based one. Currently, a turnover-based system is used in Ethiopia, which can act as a strong deterrent for foreign investors. The French system of taxation, while complex, is fundamentally profit-based, and there are certain lessons to be drawn by Ethiopia from it. By focusing on taxing profits, France has created a system that more closely follows international practice and commercial reality.

On the basis of the aforementioned experiences, there is a need for Ethiopia to shift from turnover-based approach to Profit based approach. As it has been mentioned in the other parts of the paper, Ethiopia's tax system utilizes a turnover-based MAT model. This approach taxes businesses based on their gross revenue or turnover, not on their net profit. The rationale is to simplify the tax process for businesses that may not have sophisticated accounting systems, making it easier for the government to collect revenue. However, it is exposed to the same equity and constitutional problems that made Kenya's experiment to adopt turnover-based approach futile. To make this reform sustainable over the long haul and fair, the Ethiopian government needs to reconsider the design of the MAT, perhaps shifting to profit-based system as the choice of a turnover-based MAT can affect investment and economic growth. To make it clearer, a profit-based system is more attractive to foreign investors. Investors are primarily concerned with their post-tax investment return and if the company must pay a tax even when it is not profitable, it increases the risks and reduces potential return. Most empirical researches show that investors give great importance to predictability and impartiality in taxation systems while making investment decisions.[180] Taxation levied on gross turnover can

[180] Organization for Economic Co-operation and Development (OECD), *Tax Policy Reform and Economic Growth*, OECD Publishing, Paris, (2010), pp. 111–115; World Bank Group,

lead to higher taxes during low-profit times, thus creating risks for investments, especially in capital-intensive sectors or emerging companies.[181] Profit-based tax system is considered to be much more realistic, as taxes arise only when profits have been earned.[182]

Finally, adopting profit-based approach would align Ethiopian tax policy with the majority of developed countries including those in OECD which in turn simplifies the tax compliance for multinational corporations and makes it easier for Ethiopia to participate in international agreements and double taxation avoidance agreements. However, although there are some advantages to the implementation of the profit-oriented model for MAT in terms of the ability-to-pay principle and the equitable treatment of taxpayers, the effectiveness of such an approach is conditioned by the presence of appropriate accounting standards and sound tax administration practices.[183] Within the context of Ethiopia, problems concerning bookkeeping methods, audit mechanisms, and the informal nature of a significant portion of the economy remain obstacles in relation to the introduction of profit-oriented tax systems.[184] As Feng and Wen note, turnover-based taxation could act as an intermediate solution within countries that exhibit low levels of tax administration capacity and a substantial amount of informality.[185] Hence, a gradual shift towards a profit-based approach

Global Investment Competitiveness Report 2019/2020: Rebuilding Investor Confidence in Times of Uncertainty, World Bank Publications, Washington DC, (2020), pp. 48–55.

[181] Richard M. Bird and Pierre-Pascal Gendron, *The VAT in Developing and Transitional Countries*, Cambridge University Press, (2007), pp. 25–28; International Monetary Fund (IMF), *Tax Policy for Investment in Developing Countries*, IMF Policy Paper, Washington DC, (2015), pp. 9–13.

[182] Aqib Aslam and Maria Delgado Coelho, *supra* note 19, pp. 18–24

[183] Richard M. Bird and Eric M. Zolt, Taxation and Inequality in the Developing World, *UCLA Pacific Basin Law Journal*, Vol. 34, No. 1, (2017), p. 73

[184] Aqib Aslam and Maria Delgado Coelho, *supra note* 19, pp. 18–24

[185] Feng Wei and Jean-François Wen, *supra* note 20.

should be preferred to the sudden abolition of the existing regime.

6. Concluding Remarks

The introduction of a MAT in Ethiopia through the Income Tax Amendment Proclamation 1395/2025 is a welcome piece of legislation to broaden the tax base and to address the issue of "low or zero-tax companies". The method chosen is, however, essentially flawed. The solution chosen in the form of a turnover-based MAT of 2.5% is short of international best practice,[186] and involves serious risks.[187] Cross-country experiences, particularly from India and Kenya, validate the dominance of Profit based approach as a solution to such perplexities. Kenya's experience with turnover taxation was soon reversed and ruled as unconstitutional on grounds of its unconstitutionality in fairness, making it repealed. The country has since embraced the OECD profit-based Pillar Two solution. India's long-standing and well-developed MAT system based on a company's "book profit" and with credit carry-forward facility, is one example of a fair and effective profit-based system that succeeds. This system only charges really profitable companies a minimum tax without punishing loss-making or marginal businesses.

The OECD Pillar Two proposal, to which more and more countries like

[186] Felix Hugger, Ana Cinta González Cabral, Massimo Bucci, Maria Gesualdo and Pierce O'Reilly, *The Global Minimum Tax and the Taxation of MNE Profit*, OECD Taxation Working Papers No. 68, OECD Publishing, Paris, (2024), pp. 18–2.see also Aqib Aslam and Maria Delgado Coelho, *supra note19*, pp. 24–31

[187] Richard M. Bird and Eric M. Zolt, *supra* note 183, pp. 791–821. See also IMF and OECD, *Tax Policy Reform Options for Developing Countries: Broadening the Tax Base while Preserving Equity*, OECD Publishing, Paris, (2023), pp. 44–49, and Aqib Aslam and Maria Delgado Coelho, *supra note19*, pp. 31-42.

France are committing, enshrines an international consensus that a minimum tax must be levied according to the ability of a firm to pay, as seen in its profits. The back loaded turnover approach in Ethiopia is likely to disproportionately heavily impact low-margin businesses and those really operating at a loss. This article argues that the current profit-based model is contrary to the principle of equity and may deter investment and stifle new businesses, which might take years to become profitable. While this approach is simple to manage, it sacrifices equity and economic efficiency.

For the MAT to be a long-term success, Ethiopia must do more than collecting a minimum tax. It must build a system that not only functions but is perceived to be equitable in its nature. This will involve persistent effort to accommodate tax administration, encouraging public trust, and to be willing to modify the MAT design to capture the equity principles required for a compliant tax culture.

The findings of this study suggest that Ethiopian policymakers should carefully reconsider the long-term suitability of the turnover-based MAT and evaluate the possibility of gradually transitioning toward a profit-based minimum tax system that better reflects taxpayers' actual economic capacity. This can be based on a company's "book profit," similar to the successful Indian model. Such a transition would require a multi-faceted approach: The first approach is Legislative Drafting Considerations. There will be a need to reconsider the current tax base from gross turnover to “book profit” under IFRS guidelines by instituting the use of a tax credit system whereby any taxes paid through the MAT can be applied towards paying corporate income taxes in the future. The Second approach is administrative preparation which involves improving the capability of Ministry of Finance and Ministry of Revenue in auditing the accuracy of book profits to avoid manipulation through accounting trick. The third approach is Stakeholder Consultation. A transition should involve robust dialogue with the private sector, particularly the Ethiopian Chamber of Commerce, to calibrate rates that balance revenue needs with business viability. Finally, monitoring and evaluation will play a very critical role in assessing the impacts of the tax on FDI and SMEs development.

Reassessing Preconditions for Probation under the Amended Sentencing Manual in the light of Cassation Precedent, The Principles of Separation of Powers and Human Rights

Abebew Sisay Alemnow [§]

Abstract

The Federal Democratic Republic of Ethiopia (FDRE) Criminal Code prescribes five statutory preconditions for the suspension of sentences through probation. While these criteria are legislatively endorsed, the ultimate ruling on probation remains within the discretionary power of the courts. This has led to a lack of predictability, particularly in cases of negligent homicide and commercial offenses involving invoices and bounced checks. In response, the 2025 Amended Sentencing Manual issued by the FDRE Supreme Court introduced a new, weighted point-based system including admission of guilt, victim compensation, and socio-economic factors as preconditions for probation to guide judicial discretion. However, these preconditions raise significant questions regarding their compatibility with the doctrine of separation of powers, the binding precedents of the Federal Supreme Court Cassation Division, the FDRE Constitution, and international human rights instruments. Using doctrinal legal analysis alongside some empirical evidence, this study examines these incompatibilities. Under the premise that no individual should be deprived of a legal privilege or benefit solely for exercising their fundamental rights, this article finds that the incorporation of an admission of guilt as a precondition for probation

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contravenes the privilege against self-incrimination and the presumption of innocence. Furthermore, the author argues that the enactment of additional substantive preconditions not recognized by the legislature in the FDRE Criminal Code exceeds the delegated legislative authority of the Federal Supreme Court.

Key words; Ethiopia, Criminal code, Courts, Probation, Sentencing manual, Human Right

Introduction

Sentences sanctioned by a court are not always fully executed, for the convict may be released upon probation before finishing his or her term.[1] Probation is one of the primary mechanisms through which the execution of a sentence is conditionally suspended under community supervision.[2] Suspending the enforcement of a sentence through probation serves as a vital tool in achieving the overarching goals of the criminal law.[3] Specifically, this practice facilitates the rehabilitation of the offender, alleviates prison overcrowding, ensures victim compensation, reduces government expenditure, and mitigates the social

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[1] Richard Frase, Suspended Sentences and Free-standing Probation Orders in USA Guidelines Systems: A Survey and Assessment, *Law & Contemporary Problems*, Vol. 82, No.1, (2019), p. 51

[2] Uche Darlington Okeke, hukwubuikem Ikechukwu Obianyo and Solomon Vendaga Ater, An Assessment of the Untapped Potentials of Non-Custodial Sentencing Provisions under the Nigerian Correctional Service Act 2019: Implications for the Rights of Inmates, *African Journal of Law and Human Right*, Vol.8, No.1, (2024), p. 30

[3] Abayneh Worku, Enforcement of Non-Custodial Sentencing Options Law in Ethiopia: The Practice of Kembata Tembaro Zone, LLM Thesis, Jimma University, (2022), p. 32.

crises facing the offenders family.[4] Moreover, the suspension of execution through probation demonstrates the non-retributive and reformative nature of modern criminal law.[5] This suspension is revoked if the probationer commits a subsequent offense or fails to comply with the court-mandated conditions of their probation.[6]

The preconditions for the suspension of a sentence through probation were regulated by the FDRE Criminal Code until Sentencing Manual No. 3/2025 was promulgated. On July 4, 2025, the Federal Supreme Court of Ethiopia promulgated the amended sentencing manual, replacing Sentencing Manual No. 2/2014. This amended guideline introduces several provisions that were not incorporated into the repealed sentencing manual. Most notably, the manual establishes five additional preconditions for courts to consider when suspending a criminal sentence through probation. These include the offender's admission of the offense, evidence of compensation and reconciliation with the victim, and the offender's health status. Furthermore, the court evaluate the offender's family circumstances and various personal factors, such as age, the motive behind the crime, social participation, and employment status.[7] These preconditions are assigned specific numerical weights: admission of the commission of an offense accounts

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[4] Biju Joseph and Shilpa Mi, Beyond Incarceration; Optimizing Probation Use in India through Legislative Reform and International Best Practices, *Asian Journal of Human Services*, Vol. 28, (2025), p. 351

[5] Vikas Sharm and Piyali Dutta, Probation Rights in the Indian Criminal Justice System: A Path Leading to Reformative and Rehabilitation, *International Journal of Environmental Scienc*es, Vol. 11, (2023), p. 3813

[6] Negesse Asnake Ayalew, Basis and practices of restorative justice: the case of Ethiopian criminal justice system, *Forensic Research & Criminology International Journal*, Vol. 8: No. 4, (2020), p. 140

[7] Federal Democratic Republic of Ethiopia Criminal Sentencing Directive, *Directive No. 3/2025*, (2025), Article, 123

for 10%, while victim compensation constitutes 35%.[8] The offender's health status and family circumstances each hold a weight of 10–20%, with other factors contributing between 1-15%.[9] In this context, "numerical weight" refers to the specific mathematical percentage assigned to every preconditions of probation in the sentencing manual. Under this framework, the court may only suspend a sentence through probation if at least 60% of these cumulative weighted preconditions are fulfilled.[10]

The inherent power of the judicial branch is the interpretation of laws enacted by the legislature.[11] However, the judiciary may be delegated by the legislature to enact specific subsidiary legislation, such as directives.[12] In the Ethiopian legal system, the Federal Supreme Court is delegated the authority to issue sentencing manuals, as stipulated under article 88(4) of the FDRE Criminal Code.[13] Critically, this provision mandates that the court only enact manuals governing the calculation of sentences and penalties; it does not empower the court to enact sentencing directive determining how a court-mandated sentence may be suspended. Consequently, enacting directive that establish preconditions for probation is neither an inherent nor a delegated power of the Federal Supreme Court. As a result, this sentencing manual

[8] Ibid
[9] Ibid
[10] Ibid
[11] Yemane Kassa Hailu, Executive Override of Judicial Power: In Search of Constrained Exercise of Delegated Legislations in Ethiopia, *Journal of Ethiopian Law,* Vol. 27, No. 1, (2015), p. 20; Minn. L. Rev. Editorial Board, The Inherent Power of the Judiciary to Regulate the Practice of Law A Proposed Delineation, *Minnesota Law Review,* Vol. 60, (1976), p. 783
[12] Assefa Fissha, Separation of powers and its implications for the judiciary in Ethiopia, *Journal of Eastern AfricanStudies,*Vol. 5, No. 4, (2011), p,704*;* Melaku Getachew Hailemariam, The Ouster of Judicial Jurisdiction by the Legislature in Ethiopia: Inventory of Causes and Effects, LLM Thesis, Addis Abeba University, (2022), p. 40
[13] The Criminal Code of Federal Democratic Republic of Ethiopia, Proclamation No 414/2005, *Federal* Negarit Gazette*,* (2005), Article 88(4) [Hear in after FDRE Criminal Code]

contradicts the principle of separation of powers.

Moreover, since the quasi-legislative authority of the Federal Supreme Court is derived from article 88(4) of the Criminal Code, the Court can only enact sentencing guidelines on matters expressly authorized by the Criminal Code.[14] Promulgating rules on issues not explicitly granted by the FDRE Criminal Code constitutes a direct violation of the statute. Furthermore, the FDRE Criminal Code has already established an explicit framework governing the preconditions for suspending a sentence through probation. Consequently, endorsing new preconditions that are not set forth in the Code is unlawful, particularly because the statutory provisions governing probation do not empower the Court to introduce additional requirements for probation. The probation provisions within the Criminal Code are exhaustive, leaving no regulatory room for the Supreme Court to mandate preconditions that lack a statutory basis. As a result, the amended sentencing manual is fundamentally contrary to the FDRE Criminal Code.

The incorporation of an admission of guilt as a precondition for probation infringes upon fundamental human rights recognized under Articles 19(2) and 20(3) of the FDRE Constitution, which protect accused persons from compelled to confess or admit the commission of an offense.[15] Beside this, denying the commission of an offense is a core manifestation of the presumption of innocence, which guarantees that the accused is presumed innocent until proven guilty according to the law. This constitutional protection is reaffirmed by existing judicial

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[14] Federal Democratic Republic of Ethiopia Attorney General (Legal and Justice Affairs Advisory Council), Diagnostic Study of the Ethiopian Criminal Justice System (Criminal Justice System Working Group, Addis Ababa, March 2021)

[15] Habtamu Getahun Abtaw, The Fate of Illegally Obtained Evidence in Ethiopian Criminal Process, LLM Thesis, Addis Abeba University, (2025), p. 34

precedent; prior to the enactment of the amended sentencing manual, the Federal Supreme Court Cassation Division issued a binding decision ruling that "an admission of guilt shall not serve as a prerequisite for the suspension of a sentence through probation."[16] By assigning a 10% mathematical weight to the admission of guilt, the amended sentencing manual effectively penalizes individuals who choose to exercise their constitutional protections.

By examining various scholarly and technical arguments from diverse literature, as well as national and international legislation, this article analyzes the discrepancies between the probation preconditions in Ethiopia's amended sentencing manual and the principles of the separation of powers, human rights, and established cassation precedent. This article is organized into five sections. The first section outlines the scope of application of the sentencing manual. The second section addresses the legal framework of probation within the Ethiopian legal system, while the third section examines the role of the public prosecutor regarding probation under Ethiopian law. The fourth section analyzes the failure of the amended sentencing manual to rectify preexisting legal problems. The fifth section explores the inconsistency of the new sentencing manual with the doctrine of separation of powers, fundamental human rights, and binding cassation decisions. The paper will end by a concluding summary and recommendations.

1. Scope of Application of Ethiopia's Amended Sentencing Manual

One of the significant advancements in Ethiopia's 2025 amended sentencing manual is the explicit determination of its scope of application. While it is common for legislation to define its

[16] Federal General Attorney Vs. Bussines Lema et al, Federal Supreme Court Cassation Decision Bench, File Number 185700, 2023

jurisdictional boundaries, the two preceding manuals (No. 1/2010 and No. 2/2014) remained silent on this issue, leaving their scope undefined. Conversely, article 4(1) of the amended sentencing manual clearly stipulates its applicability to all courts empowered to adjudicate criminal cases.[17] However, this general rule is subject to specific exceptions. Firstly, special laws of a criminal nature may explicitly exclude the applicability of the manual; in such instances, courts are permitted to calculate sentences independently of this guideline.[18] Similarly, military courts are not compelled to apply the sentencing manual when adjudicating military-specific offenses. Consequently, military courts retain the discretionary power to either adopt the manuals framework or depart from it entirely.[19] This principle is reinforced by the Federal Supreme Court Cassation Division, where it was ruled that military courts are not legally bound by the sentencing manuals or precautionary measures issued by the Federal Supreme Court.[20]

Secondly, the new sentencing manual is not applicable to offenders who have not attained the age of majority.[21] This exclusion is based on the principle that juvenile offenders lack full mental maturity and may not entirely comprehend the consequences of their conduct.[22]

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[17] FDRE Criminal Sentencing Directive, Article 4(1)
[18] Ibid
[19] FDRE Criminal Sentencing Directive, Article 4
[20] In File Numbers 118227 and 221416, the Federal Supreme Court Cassation Division ruled that military courts are not mandated to apply the sentencing manuals or the precautionary measures issued by the FDRE Federal Supreme Court. While the Federal Supreme Court is the highest judicial organ in Ethiopia, military courts operate under a specialized jurisdiction governed by military law (such as the Defense Forces Proclamation). The Cassation Division recognized that the unique nature of military discipline and the specific objectives of military justice require a level of autonomy.
[21] FDRE Criminal Sentencing Directive No. 3/2025 Article, 4(2)
[22] Manuel Lopez-Rey, Juvenile Delinquency, Maladjustment and Maturity, *Journal Criminal Law and Criminology*, Vol. 51, No. 1, (1960), p. 34

Consequently, subjecting these offenders to the same punitive standards as adults would fail to fulfill the underlying purposes of criminal law and sentencing.[23] Furthermore, juvenile offenders possess a greater capacity for rehabilitation and can be more effectively reintegrated into society through corrective rather than purely retributive measures. Thirdly, the sentencing manual does not apply to petty offenses.[24] It appears that the drafters excluded petty offenses because they are considered minor infractions that do not pose a significant threat to the public interest or state security.[25] Consequently, sentences for these offenses are calculated directly in accordance with the FDRE Criminal Code, primarily through an evaluation of relevant aggravating and mitigating circumstances, without adhering to the specific sentencing formulas prescribed in the sentencing manual.

Ethiopia has adopted a federalist state structure since 1991.[26] Consequently, legislative, executive, and judicial powers are bifurcated between the federal government and the regional states.[27] Under the FDRE Constitution, criminal legislative jurisdiction is primarily vested to the federal government.[28] Regional states possess criminal legislative

[23] Birhanu Fufa, Nega Jibat and Habtamu Fikadu, Practices and challenges of treatment of juvenile delinquents in the correctional center of Jimma Zone, Oromia State, *The Ethiopian Journal of Social Sciences and Language Studies*, Vol. 8, No. 2, (2021), p. 7

[24] FDRE Criminal Sentencing Directive No. 3/2025 Article, 4(2)

[25] Lokesh Mittal and Sanighdha, Petty Crimes and Community Service: A Socio-Legal Critique of The Bharatiya Nyaya Sanhita, *International Journal of Legal Science and Innovation*, Vol. 6, No. 4, (2024), p. 142

[26] Gadisa Mitiku, Federalism in Ethiopia is a tension or opportunity for Ethiopian unity, *International Journal of Political Science and Governance,* Vol. 3: No. 1,(2021), p. 14

[27] Kena Deme Jebessa, The Impact of Federal-States Intergovernmental Relations on Regional States Autonomy in Ethiopian Federal System, *African Journal of Political Science and International Relations*, Vol. 11, No. 5, (2017), p. 125

[28] Abdi G. Amenu, The Criminal Legislative Jurisdiction of Regional States under the FDRE Constitution: The Need for Exploring the Magnitude, *International Journal of Research and Scientific Innovation*, Vol. 3, (2016), p. 56

authority only over matters not explicitly covered by federal criminal legislation.[29] As a result, the Federal Criminal Code is directly applicable across all regional states. Due to this centralized criminal framework, regional states currently lack independent sentencing manuals; instead, they apply the guidelines promulgated by the Federal Supreme Court. However, through an analogical interpretation of article 55(5) of the FDRE Constitution, it is plausible to argue that regional states possess the authority to enact sentencing manuals for matters falling within their specific legislative domain.[30]

Critics argue that the power to issue sentencing manuals is a delegated legislative authority granted exclusively to the Federal Supreme Court by the federal legislature.[31] They contend that without an express delegation, regional states lack the competence to enact such guidelines.[32] Nevertheless, this paper posits that since the Constitution empowers regional states to enact substantive criminal law for residual matters, they must logically possess the procedural means to enforce those laws. It would be legally inconsistent for the Constitution to grant

[29] Leake Mekonen Tesfay, Concurrence of Crimes under Ethiopian Law: General Principles vis-à-vis Tax Laws, *Mizan Law Review*, Vol.17, No.1, (2023), p. 81

[30] This constitutional provision grants criminal legislative jurisdiction to regional states over matters not stipulated in federal penal legislation. By analogy, it stands to reason that states may also endorse sentencing guidelines for legal issues that remain unaddressed by the Federal Supreme Court.

[31] Interview with Mesfin Mekonen, Federal Public Prosecutor in Legal Awareness, Education and Training Directorate, Federal Democratic Republic of Ethiopia, Ministry of Justice, Addis Abeba, (18 March 2026)

[32] Interview with Fasil Siyoum, Federal Public Prosecutor in Legal Awareness, Education and Training Directorate, Federal Democratic Republic of Ethiopia Ministry of Justice, Addis Abeba, (22 March 2026).Furthermore, he argued that the primary purpose of a sentencing manual is to promote uniformity in sentencing. Consequently, empowering regional states to enact their own manuals could erode the principles of legal certainty and national consistency. Accordingly, under this view, regional states lack the legislative mandate to promulgate independent sentencing guidelines, as such decentralization would undermine the uniform application of criminal justice.

the power to create a crime while simultaneously prohibiting the state from establishing the standards for calculating the corresponding penalty.[33]

2. Probation under the Ethiopian Criminal Justice System

Probation in the Ethiopian legal system is not only recognized in the current FDRE Criminal Code. Instead, it was established by the 1957 Penal Code, which explicitly recognized the authority of courts to suspend the enforcement of a sentence if they believed such a measure would "promote the reform and reinstatement of the offender."[34] By taking this historical precedent into account, the current FDRE Criminal Code continues to recognize the suspension of sentences through probation. As envisaged under article 190 of the FDRE Criminal Code, a court may conditionally suspend the enforcement of a sentence when it believes that doing so will facilitate the offender's rehabilitation.[35] Within the Ethiopian criminal justice system, there are two primary mechanisms for the conditional postponement of a sentence: the suspension of the pronouncement of the penalty and the suspension of the enforcement of the penalty.[36]

2.1 Suspension of Pronouncement of the Penalty

The suspension of the pronouncement of a penalty is one method of suspension of penalty, whereby the court postpones its decision on the

[33] If the Constitution permits a regional state to define a unique criminal offense, it must necessarily permit that state to define the penal standards required to adjudicate that offense effectively.

[34] Solomon Yohhans Duketo, Probation Under Ethiopian Criminal Justice System: The Law and Practice, LLM Thesis, Addis Abeba University, (2018), p.7

[35] FDRE Criminal Code Article, 190

[36] FDRE Criminal Code, Article 191 and 194

penalty after the defendant's conviction has been verified.[37] Under article 191 of the FDRE Criminal Code, a court may temporarily postpone the pronouncement of a sentence if the accused has no prior convictions, does not appear to be dangerous, and the crime is punishable by a fine, compulsory labor, or simple imprisonment for a term not exceeding three years.[38] Crucially, the conviction is not entered into the criminal record if the probationer satisfies all court-ordered conditions.[39] In practice, however, this form of probation is not widely applied within the Ethiopian criminal justice system.[40]

Many practitioners suggest different justifications for the non-applicability of this type of probation. Some contend that the suspension of a penalty without a formal pronouncement of the sentence is less effective in achieving the objectives and purposes of criminal law and punishment.[41] Others suggest that offenders rarely initiate this type of probation because a general lack of legal literacy within society prevents them from requesting it.[42] Furthermore, some argue that the crimes eligible for suspended pronouncement are primarily matters that can be resolved through arbitration; consequently, these cases are seldom brought before the court for prosecution.[43] Additionally, some

[37] Hossein Ranjbar, Yousef Nouraei and Mehrdad Rokni, Sentence Enforcement Postponement of and Penalty Suspension in Legal Entities, *Mediterranean Journal of Social Sciences*, Vol. 7, No. 5, (2016), p. 119

[38] FDRE Criminal Code Art, 191

[39] Ibid

[40] Belayneh Admasu & Alemu Dagnew, Suspension of Penalty: The Legal Framework in Ethiopia and its Practice in the Amhara National Regional State Courts, *Bahirdar University Journal of Law*, Vol. 8, No.1, (2017), p, 125

[41] Interview with Alemneh Jenberu, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (20 March 2026)

[42] Interview with Yikeber Melak, Public Prosecutor in South Gonder Zone Justice Department, Amhara National Regional State, Debre Tabor, (19 March 2026)

[43] Interview with Tadesse Amare, President of the South Gondar Zone High Court, Amhara National Regional State, Debre Tabor, (19 March 2026)

prosecutors contend that this specific form of suspension makes it difficult to rehabilitate and monitor offenders effectively.[44] Moreover, some practitioners point to a general lack of awareness among legal professionals regarding the existence and procedural application of this type of probation for the non-applicability of this type of probation.[45]

2.2 Suspension of Enforcement of the Penalty

The FDRE Criminal Code does not explicitly define the suspension of enforcement of a penalty; instead, it prescribes the substantive preconditions that must be fulfilled to suspend a sentence. However, from the spirit and wording of the Criminal Code, it is evident that the suspension of a penalty is another form of probation, which entails postponing the execution of a sentence after it has been formally imposed by the court.[46] The Criminal Code sets forth the preconditions that must be fulfilled to suspend the enforcement of a sentence under article 194. It provides that;

> *The enforcement of sentence is postponed where the criminal has previously already undergone a sentence of rigorous imprisonment or a sentence of simple imprisonment for a term exceeding three years and where he is sentenced again to one of these penalties for the crime for which he is tried without prejudice to the provisions regarding recidivism*.[47]

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[44] Interview with Mulegeta Zegeye, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Addis Abeba, (20 March 20260

[45] Interview with Bezawit Kassaw, Judge at Wadla Woreda First Instance Court, Amhara National Regional State, Wadla, (21 March 2026); Interview with Adane Yigzaw, Judge at Estie Woreda First Instance Court, Amhara National Regional State, (18 March 2026)

[46] Wikipedia, Suspended sentence <https://en.wikipedia.org/wiki/Suspended_sentence> accessed on September 29, 2025

[47] FDRE Criminal Code Article, 194

Therefore, the court may suspend the enforcement of a sentence after verifying that the conditions for probation have been fulfilled.[48] Unlike the suspension of the pronouncement of a penalty, a conviction is still recorded even if the probationer complies with the conditions ordered by the court.[49] Furthermore, the grant of probation is subject to revocation if the probationer commits another intentional crime or fails to fulfill the specific conditions of their probation.[50]

The fulfillment of the preconditions for probation enshrined under the Criminal Code does not necessarily mandate the postponement of a sentence's enforcement.[51] Accordingly, prior to the suspension of a penalty, the court must examine whether probation is compatible with the purposes and objectives of criminal law and punishment.[52] Moreover, the court should consider several factual circumstances when deciding to suspend the enforcement of a sentence.[53] Specifically, they must evaluate the conditions that led the offender to commit the crime, including natural, economic, and social factors that may have compelled the criminal behavior.[54] Furthermore, the court should verify that suspending the enforcement of the penalty is truly necessary for the reinstatement and rehabilitation of the criminal.[55]

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48 Tamirat Taye, Administration of Pardon under Criminal Justice System: Assessing its Legal and Practical Challenges in Hawassa City Administration, LLM Thesis, Jimma University, (2019), p. 20

49 FDRE Criminal Code Article, 192

50 Shewit Kahsay, Community-Based Rehabilitation of Offenders: An Overview of Probation and Parole in Ethiopia*Hawassa University Journal of Law*, Vol. 1, (2017), p. 23

51 Seyfu Desta and Oromia Regional State Attorney General, Federal Supreme Court Cassation Division, File Number 85596, (2014)

52 Fikru Delesa and Federal General Attorney, Federal Supreme Court Cassation Division, File Number 169726, (2021)

53 Belayneh Admasu and Alemu Dagnew, Suspension of Penalty p, 123

54 Ibid

55 Ibid

Consequently, a court may refuse to suspend the enforcement of a sentence through probation even if the statutory preconditions are satisfied if the suspension of sentence does not achieve the purpose of the criminal law and does not rehabilitate the criminal. In this regard, the Federal Supreme Court Cassation Division has ruled that when deciding whether to suspend a criminal sentence, the court must specifically consider the best interest of the child.[56] Therefore, courts are obliged to grant probation when the failure to suspend a sentence would have an adverse effect on a child's welfare. However, this does not imply that a sentence may be validly postponed solely to protect the interest of the child if the legal preconditions for probation have not been met.

3. The Role of Public Prosecutors in Probation under the Ethiopian Legal System

Practically, the role of a public prosecutor under the Ethiopian criminal justice system is confined to investigating crimes and prosecuting the accused.[57] Consequently, practically, public prosecutors in Ethiopia do not initiate or request the suspension of sentence executions through probation.[58] This has sparked a significant debate among legal experts regarding whether a prosecutor should advocate probation for offenders. Some legal experts contend that empowering the public prosecutor to

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[56] Gebriel Paratori Antonio and Federal General Attorney, Federal Supreme Court Cassation Division, File Number 177216, (2021)

[57] Interview with Teketay Malede, Public Prosecutor and Criminal Case Flow Coordinator, Amhara National Regional State, Angot Woreda Justice office, Angot, (19 March 2026)

[58] Interview with Dawit Tsgie, Federal Public prosecutor in Organized and Transboundary Crimes, Federal Democratic Republic of Ethiopia Ministry of Justice, Dire Dawa, (18 March 2026). He stated: "In my experience as a Federal Public Prosecutor, I have never requested probation for an offender, nor have I seen a fellow prosecutor do so. Instead, the prosecutor's role is strictly limited to responding to a petition for probation once it has been initiated by the defendant."

request probation would jeopardize both the institutional and personal independence of the public prosecutor, potentially leading prosecutors to seek cheap popularity rather than adhering to their strict mandate.[59] Furthermore, it argued that since the authority to grant a suspended sentence falls within the discretionary power of the court, the defendant themselves should initiate the request for probation.[60] In this view, the prosecutor's role should be strictly limited to providing a rebuttal or response to the defendant's petition.[61] Ultimately, opponents of prosecutorial-led probation maintain that because there is no substantive law explicitly authorizing the prosecutor to petition for an offender's probation, doing so would constitute an arbitrary practice and a direct violation of the principle of legality.[62]

Conversely, others contend that as long as the legal preconditions for probation are fulfilled, the public prosecutor should proactively move for a suspended sentence for the offender, provided that their primary role is to ensure justice and the proper enforcement of the law.[63] Similarly, some argue that since the prosecutor represents the public interest, the objective of sentencing is not merely to punish the defendant but also to facilitate their rehabilitation and reintegration into society.[64] Consequently, if the offender has no prior criminal record, the

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[59] Interview with Tadesse Amare, President of the South Gondar Zone High Court, Amhara National Regional State, Debre Tabor, (19 March 2026)

[60] Interview with Yikeber Melak, Public Prosecutor in South Gonder Zone Justice Department, Amhara National Regional State, Debre Tabor, (19 March 2026)

[61] Ibid

[62] Interview with Bereket Geta, Federal Public Prosecutor in Legal Research, Drafting and Consolidation Directorate, Federal Democratic Republic of Ethiopia, Ministry of Justice, Addis Abeba, (20 March 2026)

[63] Interview with Bereket Tadesse, Public Prosecutor in Western Belesa Woreda Justice Office, Amhara National Regional State, Belesa, (23 March 2026)

[64] Interview with Fasil Seyoum, Federal Public Prosecutor in Legal Awareness, Education and Training Directorate, Federal Democratic Republic of Ethiopia, Ministry of Justice, Addis

offense is minor, and there is a high probability of reformation through a suspended sentence, the prosecutor should submit such a request for the sake of ensuring a just and equitable outcome.[65]

This paper adopts the latter position, contending that the inherent mandate of the Public Prosecutor is to uphold the rule of law and oversee the strict and proper enforcement of legislation enacted by the House of Peoples Representatives and other quasi legislative bodies.[66] This duty is explicitly reaffirmed in the Federal Attorney General Establishment Proclamation, the preamble of which justifies the office's existence as an institution designed to "enforce the rule of law and ensure that government actions are conducted in accordance with the law."[67] From this statutory language, it is evident that the Public Prosecutor is legally obligated to act as a guardian of legality within the Ethiopian criminal justice system.

In the Ethiopian context, a significant number of defendants appear before the court without legal counsel.[68] Due to a lack of legal literacy and unfamiliarity with the complexities of criminal procedure, many eligible offenders fail to petition for the suspension of sentence execution, even when all statutory preconditions for probation are met.[69]

Abeba, (20 March 2026)

[65] Interview with Semreab Zewudu, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026)

[66] Yvon Dandurand, 'The Role of Prosecutors in Promoting and Strengthening the Rule of Law: Second World Summit of Attorneys General, Prosecutors General and Chief Prosecutors' (2005) Working Paper III 14

[67] A Proclamation to Provide for the Establishment of the Attorney General of the Federal Democratic Republic of
Ethiopia, Proclamation No. 943/2016, *Federal Negarit Gazette*, (2016), see the preamble of this proclamation.

[68] Interview with Dires Nibret, Resident Lawyer at Ethiopian Law School Association Free Legal Aid Project, Addis Abeba, (20 March 2026)

[69] Interview with Haymanot Efrem, Federal Public Prosecutor of Miscellaneous Crime,

Therefore, to fulfill the prosecutor's primary role in the impartial administration of justice, the prosecutor should, on their own motion, initiate probation requests whenever the legal requirements are satisfied. If the prosecutor remains silent while a qualifying defendant is denied a legal right simply due to ignorance of the law, the principle of legality is undermined. Ultimately, as probation is a fundamental mechanism for achieving the rehabilitative aims of the Criminal Code, the prosecutor's intervention is not an act of cheap popularity but a fulfillment of their statutory duty to ensure the law is applied correctly and equitably.[70]

Furthermore, a public prosecutor's request for the suspension of sentence execution does not undermine the fundamental objectives of criminal law. Some practitioners contend that the authority to grant a suspended sentence is an inherent discretionary power of the court; thus, even if the accused or their legal representative fails to raise the issue, the court may suspend on its own motion.[71] Consequently, they argue that it is unnecessary for the public prosecutor to initiate probation requests, as the judiciary already possesses the mandate to do so independently.[72] Indeed, in practice, some courts do exercise this discretion to suspend the enforcement of a sentence despite a defendant's failure to petition for it.[73] Nevertheless, a court may

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Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026); Interview with Alemneh Jenberu, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026)

[70] S H Clarke, what is the Purpose of Probation and Why do we Revoke it, Crime and Delinquency, Vol. 25, No. 4, (1979), p. 409

[71] Interview with Semreab Zewdu, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026); Interview with Dawit Tsgie, Federal Public Prosecutor in Organized and Transboundary Crimes, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (24 March 2026)

[72] Ibid

[73] Interview with Mulugeta Zegeye, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Addis Abeba, (20 March 2026);

occasionally remain silent, leading to an unintentional oversight or a judicial omission in granting probation.[74] In such instances, the offender is effectively deprived of the benefit of a suspended sentence. Therefore, explicitly empowering the public prosecutor to initiate such requests is essential to bridge this gap and consolidate the prosecutor's inherent role in ensuring the proper enforcement of the law.

4. The Failure of the Amended Sentencing Manual to Rectify Preexisting Inconsistencies in Probationary Discretion

The drafters of the sentencing manual identified that probation primarily lacks predictability in three specific offenses: negligent homicide, invoice-related offenses, and issuing checks without sufficient funds.[75] Consequently, different benches and courts have rendered disparate decisions regarding probation for these three crimes, even when dealing with substantially similar factual circumstances. To address this, the Federal Supreme Court of the FDRE introduced specific preconditions for probation to enhance the predictability of judicial decisions by limiting the discretionary power of the courts.[76] However, this article contends that the incorporation of these additional preconditions is inadequate to ameliorate the preexisting problems by the following two justifications. The primary issue is that the scope of these new

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Interview with Bezawit Kassaw, Judge at Wadal Woreda First instance Court, Amhara National Regional State, Wadla, (19 March 2026)

[74] As can be observed from articles 190-200 of the Criminal Code, ruling on probation is not a mandatory procedural requirement in criminal proceedings; instead, it is left entirely to the courts discretion. Consequently, judges are not legally compelled to issue a ruling on probation during the sentencing phase; they may choose to address the matter or remain completely silent on it. In such instances, a court may fail to suspend a sentence even if all the statutory preconditions for probation have been fully satisfied.

[75] Federal Supreme Court of Federal Democratic Republic of Ethiopia, Brief statement on the Revised Sentencing Guideline No. 3/2025

[76] FDRE Criminal Sentencing Manual Directive No. 3/2025

preconditions is confined to only three categories of offenses.[77] In practice, the lack of predictability in probation is not limited to these crimes; it persists across other criminal categories as well.[78] Therefore, as long as probation for all other offenses remains subject to the broad discretionary power of the court, judicial rulings will continue to lack predictability across the legal system.

Secondly, a critical flaw in the amended sentencing manual is that the newly introduced preconditions for probation are not framed as mandatory requirements.[79] This is because unless the manual preconditions are framed as mandatory, courts will continue to decide probation matters based on the same discretion they possessed before the guideline was promulgated. Consequently, by failing to legally compel judicial compliance, the manual preserves highly discretionary decision-making, rendering it unable to rectify the preexisting problem of unpredictability in the suspension of sentence enforcement through probation. The primary justification for incorporating these additional criteria was to bolster the predictability of judicial outcomes by strictly circumscribing the discretionary power traditionally held by the courts.[80]

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[77] Ibid

[78] Based on the author's experience as a Federal Public Prosecutor appearing in numerous cases, judicial decisions regarding probation frequently lack predictability beyond the specific crimes identified by the drafters of the sentencing manual. In practice, courts often render inconsistent rulings suspending a sentence in one instance while refusing to do so in another, even when the cases involve substantially similar conditions and the same category of crime.

[79] Dr. Dejenie Girma, Interview with Liya Terefe, Fith Lehagrie, Criminal Sentencing Manual accessed from <https://www.youtube.com/watch?v=_0dVocDD8Og&t=2912s>accessed on 20 March 2026

[80] Brief statement of the Federal Supreme Court of Federal Democratic Republic of Ethiopia on the Revised Sentencing Guideline No. 3/2025; Petros Aragie, (Head, Kirkos Branch office of FDRE Ministry of Justice) 'Training on Miscellaneous Crimes and Charge Preparation' (Ministry of Justice Training for Public Prosecutors, Dire Dawa, September 2025)

However, the manual contains a paradoxical provision that effectively preserves the very discretion it sought to limit. Specifically, article 123(3) of the sentencing manual grants courts the residual authority to issue rulings on probation that fall entirely outside the parameters established by the manual.[81] The only procedural safeguard or limitation imposed on a court that suspends a sentence via probation by exercising this extra-manual discretion is the requirement to notify the Federal Supreme Court that it has suspended the sentence out of the manual within 60 days of its decision.[82] This notification requirement is a procedural formality rather than a substantive constraint. It does not prevent a judge from bypassing the manual's weighted evaluation system. Consequently, this article contends that the systemic inconsistency in sentencing can only be effectively minimized if the legislature enacts compulsory, uniform preconditions for probation that are applicable to all offenses without exception. Without removing these discretionary loopholes, the manual remains ineffective to rectify the preexisting unpredictability problem of probation in the courts.

Another challenge raised is the contention that a specific precondition in the amended sentencing manual is practically unenforceable, thereby hindering the manuals proper implementation.[83] Specifically, the manual prescribes reconciliation with the victim as a weighted precondition for the suspension of a sentence through probation, accounting for 35% of the total evaluation.[84] The manual further stipulates this as a requirement for offenders convicted of failing to issue tax invoices under

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[81] FDRE Criminal Sentencing Directive No. 3/2025 Article, 123(3)

[82] FDRE Criminal Sentencing Directive No. 3/2025 Article, 123(3)

[83] Interview with Haymanot Efrem, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026); Interview with Semreab Zewdu, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026)

[84] Ibid

Proclamation 980/2016.[85] Critics argue that the fundamental challenge lies in identifying the party with whom the offender must reconcile; in tax-related crimes, the victim is the state.[86] Consequently, they contend that the manual fails to provide a mechanism for reconciling with a state institution.[87] Without such a mechanism, they claim this 35% weight becomes an insurmountable barrier, effectively denying probation to tax offenders due to a procedural loophole.[88]

However, this paper departs from that argument. The position held by these legal experts stems from an erroneous interpretation of the preconditions for reconciliation and compensation.[89] The manual does not prescribe reconciliation and compensation as cumulative requirements.[90] Instead, the manual employs the disjunctive "or" rather than the conjunctive "and." Therefore, any offender who either compensates the victim or reconciles with them may have their sentence suspended. In the context of tax crimes, an offender seeking probation can satisfy the requirement by paying compensation to the relevant tax or revenue authority for the damage caused to government revenue. Consequently, prescribing compensation or reconciliation does not present a practical challenge to the enforcement of probation.

5. Discrepancies in Ethiopia's Amended Sentencing Manual Regarding the Preconditions of Probation

As established above, the 2025 Amended Sentencing Manual is

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85 Ibid
86 Ibid
87 Ibid
88 Ibid
89 Ibid
90 See Annex 3 of FDRE Criminal Sentencing Manual, Directive No. 3/2025

inconsistent with separation of power, several legislative acts, and a binding decision of the Federal Supreme Court Cassation Division. Accordingly, this section scrutinizes scholarly and technical arguments from diverse literature, legislation, and legal principles to examine the discrepancies between the amended manual and these established legal frameworks.

5.1 Constitutional Boundaries: Probation Preconditions and the Doctrine Separation of Powers

The existence of the separation of powers is a hallmark of the democratic state.[91] Although its origins trace back to Plato and Aristotle, the principle was first formally articulated by Baron de Montesquieu in his 18th century work, "The Spirit of Laws".[92] Montesquieu contends that vesting a single branch with the authority to promulgate, enforce, and adjudicate law undermines individual liberty.[93] Accordingly, he advocates for the decentralization of power among three distinct branches of government: the legislature, the executive, and the judiciary.[94] Under the Montesquieu model, executive organs are strictly prohibited from enacting laws or adjudicating disputes; similarly, the judiciary cannot legislate or enforce laws.[95] However, the application of

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[91] Zia Akhtar, Montesquieu's theory of the Separation of Powers, Legislative Flexibility and Judicial Restraint in an unwritten Constitution, *Amicus Curiae*, Vol. 4, No. 2, (2023), p. 552

[92] Shams Firdaus, Separation of Power in the Contemporary State, *International Journal of Law Management & Humanities*, Vol.7, No. 2, (2024), p. 2089

[93] Huong Thu Thi Nguyen and Mai Thi Pham, Adapting Montesquieu: The Integration of Separation of Powers into Vietnam's Socialist Governance Framework, *Synesis*, Vol. 16, No. 4, (2024), p, 140

[94] Abdulrasheed Abdulyakeen, An Appraisal of Charles De Montesquieu Theory of Separation of Power within the Prisms of Power Relations among Structures of Government in Nigeria's Presidential System: The Dilemma and Critical Issues, *Fudma Journal of Management Sciences*, Vol. 3, No. 2, (2021), p. 1

[95] Tobias Oberdieck, The Principle of Separation of Powers Between the Legislature and Judicially: Distribution of State Power Several State Bodies for this Purpose Limitation of

strict separation of powers, as formulated by Montesquieu, often hinders the efficacious enforcement of law in the contemporary world.[96]

Consequently, the complexity of the modern world and the technical nature of many contemporary issues necessitate cooperation among the branches of government, often requiring one branch to intervene in the traditional spheres of another.[97] It is, therefore, practically impossible to apply a strict separation of powers within a modern system of government.[98] As a result, the doctrine of delegated legislation has emerged.[99] Accordingly, the legislature has delegated its legislative power to the executive and judiciary organs of government.[100] Legislative and quasi legislative organs have inherent and delegated legislative power respectively.

The principle of delegated legislation is built upon the premise that an organ exercising derivative power is strictly confined to the specific mandate granted by the primary law-maker.[101] As such, entities exercising delegated legislative power are restricted to enacting laws solely on those matters specifically articulated in the delegation.[102]

Power, *International Journal of Public Administration Management and Economic Development,* Vol. 8, No. 2, (2023), p. 1

[96] Melaku Getachew Hailemariam, 'The Ouser of Judicial Jurisdiction by the Legislature in Ethiopia: Inventory of Causes and Effects, LLM Thesis, Addis Abeba University, (2022), p. 35

[97] Jeremy Waldron, Separation of Powers in Thought and Practice, Vol, 54, No, 2, (2013) *Boston College Law Review*available at <http://lawdigitalcommons.bc.edu/bclr/vol54/iss2/2 >last accessed on 20 September 2025

[98] Alex Zhang, Separation of Structures, Vol, 110, (2024), *Virginia Law Revie*w, p. 599

[99] Vladimir Valentinovich Kozhevnikov, About Delegated Legislation, *Journal of Social, Cultural and Political Studies,* Vol. 7, No. 2, (2019), p. 82

[100] Shah, S. Z. H, Azeem, H. M. & Ayub, A, Exploring the Principles of Judicial Review in Delegated Legislation, *Social Sciences Spectrum,* Vol. 3, No. 4, (2024), p. 17

[101] Richard A. Epstein, Delegation of Powers: A Historical and Functional Analysis, *Chapman Law Review*, Vol. 24, No. 3, (2021), p. 680

[102] Ibid

Furthermore, the capacity for a delegate to further transfer its power is not inherent, ratherthat must be grounded in an express constitutional enabling provision.[103] Accordingly, a delegate can delegate its legislative power only when such delegation is permitted by the constitution. In this regard, the FDRE constitution allows the legislature to delegate its legislative power only to the executive organ of the government.[104] Delegation of legislative power to the judiciary organ is not constitutionally granted.[105] Therefore, enacting sentencing guideline by the judiciary organ raises the issue of constitutionality.[106]

The inherent power of the court lies in the adjudication of disputes through the interpretation of laws promulgated by the legislature.[107] Beyond this primary function, the Federal Supreme Court of Ethiopia has been delegated the authority by the legislature to enact sentencing guidelines.[108] As envisaged under article 88(4) of the FDRE Criminal Code, the Federal Supreme Court is empowered to promulgate a sentencing manual to ensure the correctness and uniformity of sentences.[109] From this provision, it is clear that the Federal Supreme Court's mandate is limited to enacting a manual specifically regarding

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[103] Kevin Arlyck, Delegation, Administration, Improvisation, Notre Dame Law Review, Vol. 97, No. 1, (2021), p, 680

[104] Aron Degol and Abdulatif Kedir, Administrative Rule Making in Ethiopia: Normative and Institutional Framework,*Mizan Law Review*, Vol. 7, No. 1, (2013), p. 1

[105] Yemane Kassa Hailu, Executive Override of Judicial Power: In Search of Constrained Exercise of Delegated Legislations in Ethiopia*, Journal of Ethiopian Law*, Vol. 27, No. 1, (2008), p. 1

[106] Sefiew Ayenew, Ethiopian Sentencing Guideline and their Application: A case Study in Federal Courts, LLM Thesis, Addis Abeba University, (2014), p. 27

[107] Yonatan Tesfaye Fessha, Whose Power is it anyway: The Courts and Constitutional Interpretation in Ethiopia, *Journal of Ethiopian Law,* Vol. 22, No. 1, (2008), p. 128

[108] Hailye Gebremedin, Critical Analysis of Revised Sentencing Guideline of FDRE Supreme Court and its Practical Application: The case of Jimma Zone, LLM Thesis, Jimma University, (2016), p. 17

[109] FDRE Criminal Code Article, 88(4)

the calculation of penalties. Accordingly, the Court is not mandated to issue manuals governing how a sanctioned sentence is enforced or suspended via probation. While courts possess the discretionary power to grant probation, they do not have the inherent right to promulgate the substantive preconditions for that probation.[110]

Nevertheless, some contend that judicial organs possess the inherent power to promulgate directives concerning their administrative and judicial affairs.[111] Accordingly, proponents of this view argue that the Federal Supreme Court of the FDRE has the authority to enact the Sentencing Manual that determines the preconditions of probation, perceiving it as a mere administrative directive.[112] However, a sentencing manual is not an administrative directive designed to regulate the internal affairs of the judiciary. Instead, it is an instrument enacted to enforce substantive criminal law, which directly impacts individual liberty. Moreover, even if one assumes that the manual is administrative in nature, the judiciary lacks the power to enact it independently; its legislative authority is limited to the specific delegation found in Article 88(4) of the Criminal Code. As a result, incorporating such preconditions of probation into the manual represents an exercise of power that is neither inherent nor expressly delegated. Ultimately, by assuming ordinary legislative functions, the Federal Supreme Court encroaches upon the domain of the legislature, thereby contravening the doctrine of separation of powers.

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[110] Dressler David, *Origin of Probation in Practice And Theory of Probation and Parole*, 2nd edition, Columbia University press, (1969), p. 78

[111] Interview with Fasil Seyoum, Federal Public Prosecutor in Legal Awareness, Education and Training Directorate, Federal Democratic Republic of Ethiopia, Ministry of Justice, Addis Abeba, (23 March 2026)

[112] Ibid

Moreover, some legal experts contend that the suspension of a sentence through probation is "part and parcel" of the sentencing process.[113] They argue that as long as the authority to issue sentencing manuals is delegated to the Federal Supreme Court, the inclusion of probation preconditions does not violate the doctrine of separation of powers.[114] However, this argument overlooks the existing statutory hierarchy. While probation is indeed a component of the punishment phase, the legislature has already definitively established the legal requirements for its application under Articles 191 et seq. of the FDRE Criminal Code.[115]

Since the legislature has already prescribed these specific statutory preconditions, the Court's unilateral introduction of supplementary criteria constitutes an encroachment upon the exclusive legislative power of the legislature. Furthermore, under the principle of delegated legislation, a delegate (the Court) cannot act on matters that are not expressly authorized. The Federal Supreme Court was delegated the power to ensure the uniform calculation of sentences; it was never expressly granted the mandate to create new substantive rules governing how a final sentence is suspended or enforced. By enacting these additional substantive preconditions of probation, the Court has exceeded its delegated authority, resulting in an ultra virus directive that bypasses legislative supremacy.

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[113] Interview with Bereket Geta, Federal Public Prosecutor, Federal Democratic Republic of Ethiopia Ministry of Justice, Legal Drafting, Consolidation and, Addis Abeba, (20 March 2026); Interview with Fasil Seyoum, Federal Public Prosecutor, Federal Democratic Republic of Ethiopia Ministry of Justice, Legal Drafting, Education and Training Directorate, Addis Abeba, (18 March 2026); Interview with, Mesfin Mekonen, Federal Public Prosecutor, Federal Democratic Republic of Ethiopia Ministry of Justice, Legal Drafting, Education and Training Directorate, Addis Abeba, (18 March 2026)

[114] Ibid

[115] FDRE Criminal Code, Article, 191-197

Furthermore, proponents of the manual argue that it does not contradict the fundamental principles established by the legislature.[116] Instead, they view it as interpretative guidance designed to provide judges with a detailed framework for the practical application of preconditions of probation stated under the FDRE Criminal Code.[117] However, this characterization is legally inaccurate. The preconditions for probation introduced in the 2025 Amended Sentencing Manual are not merely tools to clarify or fill interpretative gaps within the FDRE Criminal Code. Rather, these criteria function as independent substantive requirements. By assigning specific numerical weights to the preconditions of probation the manual creates a new, autonomous legal threshold that the legislature never contemplated.[118] When a directive establishes mandatory points of proof that exist outside the parent statute, it ceases to be "guidance" and becomes an independent regulatory hurdle. Consequently, these provisions do not interpret existing law; they bypass it, effectively creating a parallel system for the suspension of sentences that lacks a primary legislative basis.

The legislature established five specific conditions for suspending sentences via probation under article 194 of the FDRE Criminal Code.[119] Even if one assumes that the Federal Supreme Court possesses the power to issue a sentencing directive, such a directive must strictly align with the provisions of the Criminal Code. The Court is not

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116 Interview with Bereket Geta, Federal Public Prosecutor, Federal Democratic Republic of Ethiopia Ministry of Justice, Legal Research, Drafting and Consolidation and, Addis Abeba, (20 March 2026); Interview with Fasil Seyoum, Federal Public Prosecutor, Federal Democratic Republic of Ethiopia Ministry of Justice, Legal awareness, Education and Training Directorate, Addis Abeba, (20 March 2026)

117 Ibid

118 Interview with Nibret Mamaru, Public Prosecutor, Amhara National Regional State, Debre Birhan City Administration Justice Office, Debre Birhan, (22 March 2026)

119 FDRE Criminal Code, article 194

authorized to create new probation requirements beyond those enacted by the legislature. Because the new sentencing manual includes conditions absent from the Criminal Code, it contradicts the criminal law. As its stated under the article 3 of the FDRE Criminal Code special laws which have criminal nature and content can incorporate rules and principles which are different from the general part of criminal code.[120] Accordingly, some perhaps contend that as long as the sentencing manual is special criminal law, incorporating new preconditions of probation is not against the FDRE Criminal Code.

The author contests this assertion, contending that the sentencing manual does not constitute a special criminal law, rather it serves as a general guideline designed to assist judges in determining the appropriate sentence for a convicted person.[121] Furthermore, as envisaged under article 5(7) of the manual itself, its provisions must be interpreted in strict conformity with the FDRE Criminal Code.[122] Sentencing guidelines are supplementary to criminal law and lack independent enforceability. Consequently, a sentencing manual cannot endorse rules or principles that are inconsistent with established criminal statutes. It follows that any preconditions for probation enshrined in the amended manual which are not present in the FDRE Criminal Code contravene both the principle of separation of powers and the Code itself. Moreover, the provisions of the FDRE Criminal Code regarding probation are exhaustive and close-ended; they do not empower the court to introduce additional, non-statutory preconditions through

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[120] Simeneh Kiros Assefa & Cherinet Hordofa Wetere, Over Criminalization: A Review of Special Penal Legislation and Administrative Penal Provisions in Ethiopia, *Journal of Ethiopian Law*, Vol. 29, (2007), p. 50

[121] Sefiew Ayenew Demle, Sentencing Guidelines and Their Applications in Ethiopian Federal Courts, *International Journal of Law and Society,* Vol. 5, No. 1, (2022), p. 11

[122] Kas sahun Molla Yilma and Julian V. Roberts, Out of Africa: Exploring the Ethiopian Sentencing Guidelines, *Criminal Law Forum*, Vol. 30, No. 3, (2019), p. 309

sentencing directives. Because of the Federal Supreme Court's authority to issue a sentencing manual is derived from the Criminal Code, and since neither Article 88(4) nor the code's specific probation provisions grant the court residual regulatory space, incorporating new preconditions through the manual directly violates the FDRE Criminal Code.

This constitutional boundary is clearly respected in other jurisdictions. In the Kenyan legal system, for instance, the legislature has enacted the Probation of Offenders Act, which serves as the primary statutory framework that courts must follow when suspending a sentence.[123] By anchoring these criteria in an Act of Parliament, the court suspends the enforcement of sentence through probation.[124] A similar legislative foundation is observed in the Indian legal system, where the Probation of Offenders Act of 1958along with Section 360 of the Code of Criminal Procedure, establishes strict statutory preconditions for the suspension of sentences.[125] By mandating that courts consider the nature of the offense and the character of the offender often through a compulsory report from a Probation Officer the Indian legislature ensures that judicial discretion is exercised within a defined legal perimeter rather than in a vacuum.[126]

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[123] Grace N. Kimani, Erick Kiprono Bor and Samwel Auya, The Influence of Probation Orders on the Reformation of Offenders in Nakuru County Kenya, *International Journal of Social Science and Humanities Research,* Vol. 11, No. 4, (2023), p, 165

[124] National Crime Research Centre, A Study on the Delivery of Community-Based Sentences: The Case of Probation Orders in Kenya (NCRC Research Report No 7, 2019), p, 8

[125] Sehanaz T, From Legislation to Implementation: A Roadmap for India's Probation System Reform, *International Journal for Multidisciplinary Research*, Vol. 7, No. 4, (2024), p. 2

[126] Vandana Thakur, Legislative Framework of Probation in India, *Journal of Emerging Technologies and Innovative Research,* Vol. 12, No. 4, (2025), p. 670

5.2 The 2025 Sentencing Manual Vs. The Binding Decisions of the Cassation Division

The Federal Supreme Court Cassation Division of the FDRE ruled that the admission of an offence before the court, the failure to cover court expenditures, and the showing of true repentance through arbitration with the victim are not preconditions for the suspension of a sentence through probation.[127] Instead, the Bench clarified that these factors are merely indicators for the effective enforcement of probation.[128]

Moreover, the court ruled that denying the commission of the offence is a manifestation of the principle presumption of innocence and the right to privilege against self-incrimination.[129] However, in the amended sentencing manual admission of the commission/omission of offence and compensating the victim through arbitration are envisaged as a precondition to suspend the enforcement of sentence through probation.[130] Therefore, there is a clear discrepancy between the decision of the court and the sentencing manual. As a result, the question it can be raised here is which one is binding and enforceable. In the Ethiopian judicial system, there is a prevailing argument that a decision of the Cassation Division remains binding unless specifically set aside by a bench of seven judges.[131] Accordingly, they contend that a cassation decision takes precedence over the sentencing manual until it

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[127] Federal General Attorney Vs. Bussines Lema, Federal Supreme Court Cassation Decision Bench, File Number 185700, (2023)

[128] Ibid

[129] Ibid

[130] FDRE Criminal Sentencing Manual, article 123

[131] Interview with Tadesse Amare, President of the South Gondar Zone High Court, Amhara National Regional State, Debre Tabor, (19 March 2026); Interview with Yikeber Melak, Public Prosecutor in South Gonder Zone Justice Department, Amhara National Regional State, Debre Tabor, (19 March 2026); Interview with Bereket Tadesse, Public Prosecutor in Western Belesa Woreda Justice Office, Amhara National Regional State, Belesa, (23 March 2026)

is formally overruled by such a bench.[132]

This argument stems from an erroneous interpretation of Article 26(1) of the Federal Courts Proclamation No. 1234/2020 and binding nature of the cassation decision.[133] The Cassation Division was rendered conflicting interpretations on identical issues of fact and law without expressly overturning prior precedents, it consequently creates legal uncertainty.[134] Article 26(1) is specifically enacted to resolve this inconsistency.[135] It provides that where a pending case involves a legal interpretation that conflicts with a prior mandatory precedent set by the Federal Supreme Court Cassation Division, the matter must be referred to a bench consisting of no fewer than seven judges for a definitive ruling.[136] Therefore, article 26 of the Proclamation does not imply that a decision remains untouchable until repealed by seven judges; rather, it establishes a procedural mechanism for a specially constituted bench to resolve discrepancies between conflicting precedents.[137] Furthermore, this provision addresses internal discrepancies between judicial decisions; it does not govern conflicts between cassation rulings and other legal instruments like directives or regulations.[138] The provision is strictly a solution for when a discrepancy arises from inconsistent

[132] Ibid
[133] Article 26(1) of the Federal Court Proclamation stated that, "the cassation division presided by five judges may, by its own initiation or by a petition filed by one of the litigant parties, direct the case to be heard by a cassation division comprising of not less than seven judges by giving clear and sufficient reasons where changing the previous legal interpretation is so necessary."
[134] Interview with Semreab Zewudu, Federal Public Prosecutor of Miscellaneous Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (19 March 2026)
[135] Ibid
[136] Ibid
[137] Ibid
[138] Interview with Dawit Tsgie, Federal Public Prosecutor in Organized and Trans Boundary Crime, Federal Democratic Republic of Ethiopia, Ministry of Justice, Dire Dawa, (22 March 2026)

judicial interpretations of the same law or facts.

Moreover, determining the hierarchy between the law and the rulings of the Cassation Division is essential to establishing whether the sentencing manual or a cassation decision holds supremacy. Before addressing this, it's better to determine the legal quality of directives to rank against judicial precedent. Prior to the enactment of the Administrative Procedure Proclamation, directives were not considered as a law. The Federal Supreme Court tended to treat directives merely as evidence produced by litigants to bolster their arguments.[139] Consequently, instead of the court taking judicial notice of them, disputing parties invoking rights derived from directives were obligated to submit them as evidence.[140] Indeed, the Cassation Division reversed this stance in its binding decision. The court ruled that courts shall take judicial notice from directives.[141] Due to the non-publication of directives in the Federal Negarit Gazette, some authors disregard the decision of the court by contending that, "obliging the court to take notice of laws which are not published is like obliging the court to read what is not written on paper."[142]

The Administrative Procedure Proclamation has rectified the assumption that directives are not binding law by prescribing substantive and procedural preconditions for considering a certain legal document as a

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139 Abriham Yohhans, **የአስተዳድር ህግ መግቢያ** [Introduction of Administrative Law], 1st edition, Alfa publishers, (2020), p. 110-112

140 Gebere Mariyam Gebre Medhin vs. Taime Welde Selassie, Federal Supreme Court Cassation Decision Bench, File Number 83060, (2013)

141 Dandeboru University Collage vs Teklu Arega and others, Federal Supreme Court Cassation Decision Bench,File Number 40804, (2011)

142 Abebew Sisay Alemnow, Legal Effect of Unpublished International Law on Federal Negarit Gazette under the Ethiopian Legal System, *Chokie Journal of Law,* Vol. 2, No.1, (2025), p. 55

directive.[143] This proclamation defines a directive as a binding legal instrument which creates rights and obligations for individuals.[144] Consequently, as long as a directive is enacted in conformity with the substantive and procedural requirements set forth in the Administrative Procedure Proclamation, it carries the force of law, similar to proclamations and other legislation. This is further supported by the Federal Attorney General Establishment Proclamation, which defines directives as part of the law of the Federal Government.[145] Moreover, the Consolidation of the House of the Federation Proclamation defines law to include directives, proclamations, and international treaties ratified by Ethiopia.[146] In conclusion, a directive is a binding legal instrument equivalent to other forms of legislation.[147]

Finally, the question that can be raised is which one prevails in the case of a contradiction between a decision of the Cassation Bench and the sentencing directive. The inherent power of the court is to interpret laws endorsed by competent organs. The purpose of the Cassation Bench is to ensure the uniform interpretation of law by interpreting existing legal frameworks without going beyond the intention of the legislature.[148] Accordingly, the cassation court is compelled to interpret laws only

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143 Abriham Yohhans, p, 109

144 A Proclamation to Provide for Federal Administrative Procedure Proclamation, Proclamation No.1183/2020, *Federal Negarit Gazetta*, Article 2(2)

145 Federal General Attorney Establishment Proclamation Article, 2(3)

146 Consolidation of the House of the Federation and the Definition of its Powers and Responsibilities Proclamation,
Proclamation No. 251/2001, *Federal Negarit Gazetta*, Article. 2(2)

147 Dagnachew Tesfaye, 'Major Points in Making Directives: Procedure to Adopt, Binding Nature and Accessing Them' Dagnachew and Mahilet Law Firm (Addis Abeba, 22 September 2020) https://dmethiolawyers.com/directives-procedure-to-adopt-binding-nature-and-accessing-them/ accessed on 1 October 2025

148 Haile Andargie, Comparison between the Ethiopian Model of Cassation Division Binding Legal Interpretation and the Chinese Model of Guiding Case, *Bahir Dar University Journal of Law*, Vol.12, No.1, (2021), p. 81

within the scope of existing legal frameworks and cannot "depart from the clear provisions of law".[149] More importantly, there is no law which precludes the replacement of the decisions of the cassation bench by legislations including directives. Empowering a decision of the Cassation Court to remain binding, even when a new law including a directive derogates from that decision, erodes the principle of the separation of powers by usurping the law-making power of the legislature.[150] Consequently, the new law enacted by the legislature prevails over the decision of the Cassation Bench. In this sense, the Sentencing Directive prevails over the decision of the Cassation Bench.

Moreover, while the Federal Supreme Court Cassation Division is primarily mandated to interpret the law, its judicial precedents are subject to alteration by the legislature or by organs exercising delegated legislative authority.[151] Under the Ethiopian legal framework, the Federal Supreme Court operates in a dual capacity: as a judicial body issuing binding cassation decisions and as a quasi-legislative body empowered to issue sentencing manuals.[152] Given this structural overlap, it is highly improbable that the drafters of the new sentencing manual were unaware of existing cassation jurisprudence. Consequently, the author contends that by enacting the new manual, the Federal Supreme Court effectively superseded and repealed prior cassation

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[149] Simeneh Keros Assefa, Binding Interpretation of Law in Ethiopia: Observations in Federal Supreme Court Cassation Decisions, *Mizan Law Review,* Vol.18, No.1, (2024), p. 1

[150] Pradeep Sharma, Fufa File Jabna and Kuma Beyene Fita, The Ambiguities of Legislative Power under the Ethiopian Law: Emphasis to Forest Proclamation, *International Journal of Advanced Multidisciplinary Research,* Vol. 8, No. 6, (2021), p. 1

[151] Abdissa Dashura, Implication of Cassation over Cassation in the Ethiopian Federal Context: With Special Reference to the Principle of Self-Determination, LLM Thesis, Addis Abeba University, (2014), p. 7

[152] Bilal Gemmedi, Ethiopian Judicial Federalism: Emphasis to Judicial Power of Oromia Courts on Commercial Disputes in line of FDRE Constitution, LLM Thesis, Jimma University, (2019), p. 34

precedents regarding the criteria for probation. Ultimately, the specific provisions of the sentencing manual, acting as a later-in-time legislative instrument, must prevail over the earlier judicial interpretations of the Cassation Division.

5.3 The Incompatibility of the Amended Sentencing Manual with Fundamental Human Rights

International human rights treaties impose a tripartite obligation on all state and governmental authorities: to respect, protect, and fulfil.[153] The obligation to respect requires the government to refrain from interfering with the enjoyment of individual rights.[154] The duty to protect mandates that the state prevent third-party interference with these rights, while the obligation to fulfil requires the government to take proactive measures to ensure the full realization of human rights for all.[155]

Chapter three of the FDRE Constitution provides a comprehensive catalog of fundamental rights and freedoms.[156] Furthermore, Ethiopia has ratified and domesticated numerous international human rights instruments, integrating them into the national legal system.[157]

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[153] Paula Gerber and others, General Comment 16 on State Obligations Regarding the Impact of The Business Sector on Children's Rights: What is its Standing, Meaning and Effect, *Melbourne Journal of International Law*, Vol. 14, (2013), p.1

[154] Leavides G. Domingo-Cabarrubias, Discourses on the role of human rights in the work of international financial institutions: a critical review of literature, *The International Journal of Human Rights,*Vol,30, No, 5, (2025), p. 1

[155] Global Initiative for Economic, Social and Cultural Right, 'States' Human Rights Obligations Regarding Public Services the United Nations Normative Framework' Policy Brief 19 October, (2020), p. 1

[156] K. I. Vibhute, Right to Access to Justice in Ethiopia: An Illusory Fundamental Right, *Journal of the Indian Law Institute,* Vol. 54, No. 1, (2012), p. 67

[157] Abebew Sisay Alemnow, Legal Effect of Unpublished International Law in Federal Negarit Gaztte under the Ethiopian Legal System, *Chokie Journal of Law*, Vol. 2, No. 1, (20250, p. 55

Consequently, any legislation or directive promulgated by any state organ must strictly conform to these constitutional and international standards.[158] As the Federal Supreme Court is a core component of the judiciary, it bears a primary legal duty to uphold these protections.[159] This responsibility is reaffirmed by article 13(1) of the FDRE Constitution, which imposes a binding obligation on the legislative, executive, and judicial branches at both the federal and regional levels to respect and protect the rights recognized therein.[160] However, by enacting a sentencing manual that establishes criteria in direct conflict with these constitutional and international guarantees, the Federal Supreme Court has abdicated its judicial mandate to safeguard individual liberties.

A. Presumption of Innocence and the Right against Self-incrimination Vs. Pleading of Guilty

The presumption of innocence serves as the cardinal principle of the criminal justice system.[161] That is why the principle is recognized in several international human rights instruments and in any state, which

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[158] Solomon Emru Gutema, Compatibility of the Revised Oromia National Regional State Constitution of 2001 with the FDRE Constitution with Respect to Adjudication of Constitutionality Issues and its Possible Effects, LLM Thesis, Addis Abeba University, (2011), p. 41

[159] Fahed Abul-Ethem, The Role of the Judiciary in the Protection of Human Rights and Development: A Middle Eastern Perspective, *Fordham International Law Journal,* Vol. 26, No. 3, (2002), p. 761

[160] Duguma Neda Areda, Judicial Ethics and Fair Trial: A Critical Analysis of the Case of the Courts of Special Zone of Oromia Surrounding Finfine, LLM Thesis, Addis Abeba University, (2016), p. 13

[161] Adeyanju Oluwafunmilayo Folasade, Safeguarding the Legal Provisions of the Presumption of Innocence of Pretrial Detainees, *Redeemer's University Nigeria, Journal of Jurisprudence & International Law*, Vol.3, No.1, (2023), p. 62

adopts democratic system of government.[162] Legally defined, this principle mandates that every person charged with a criminal offense must be treated as innocent until their guilt is proven "beyond a reasonable doubt" by the public prosecutor.[163] This principle shifts the burden of proof entirely onto the state, embodying the golden principle of criminal jurisprudence, "it is better that ten guilty persons escape than that one innocent suffers."[164] In the Ethiopian legal framework, this is explicitly enshrined under article 20(3) of the FDRE Constitution, which guarantees the accused the right to be presumed innocent until proven guilty by a competent court.[165]

This domestic protection is a reflection of a global human rights standard recognized in numerous international and regional instruments. Article 11(1) of the Universal Declaration of Human Rights and article 14(2) of the International Covenant on Civil and Political Rights both affirm that everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.[166] Similarly, the African Charter on Human and Peoples Rights under article 7(1) (b) reinforces this right, ensuring it is upheld across the continent.[167] These instruments dictate that the prosecution bears the

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[162] Iris Berisha, The Principle of presumption of innocence, *European Journal of Economics, Law and Social Sciences*, Vol. 4, No. 2, (2020), p. 249

[163] Werku Yaze Wodago, Burden of Proof, Presumptions and Standard of Proof in Criminal Case, *Mizan Law Review,* Vol. 8, No. 1, (2014), p. 252

[164] Elies Van Sliedregt, A Contemporary Reflection on the Presumption of Innocence, International Review of Penal Law, Vol. 80, No. 1, (2009), p. 247; Pamela R. Ferguson, The Presumption of Innocence and its Role in the Criminal Process, *Criminal Law Forum*, Vol. 27, (2026), p. 139

[165] FDRE Constitution, article 20(3)

[166] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art 11(1); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 14(2)

[167] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217 (African Charter) art 7(1)(b)

exclusive burden of overcoming the presumption of innocence through the presentation of compelling evidence, and that no adverse inference should be drawn from an accused persons refusal to plead guilty.

An accused person's denial of the charges before a court of law is a fundamental manifestation of the presumption of innocence.[168] This is reaffirmed by the binding jurisprudence of the Federal Supreme Court Cassation Division, which establishes that pleading not guilty is a fundamental exercise of this constitutional right.[169] In volume 25 the court ruled that;

> ***የወንጀል ክስን ክዶ መከራከር…የወንጀል ጥፋተኝቱ በማስረጃ እስኪረጋገጥ ድረስ ንጹህ ሆኖ ከመገመት ሕገ-መንግስታዊ መብት ጋር የተያያዘ በመሆኑ የወንጀል ክስ ያላመነ ሰው የቅጣት ውሳኔ ሊገደብለት አይገባም በሚ ል ትርጉም ሊሰጥበት የሚ ችል ጉዳይ አይደለም*** *[170]*

The court reaffirmed that denying a criminal charge and forcing the state to prove its case is intrinsically connected to the constitutional right to be presumed innocent until proven guilty by the evidence of the public prosecutor. Therefore, an accused's refusal to admit to a crime must never be interpreted as a ground to restrict or deny them the benefit of the suspension of a penalty through probation. By requiring the public prosecutor to prove every element of the crime, the presumption of innocence ensures that the judicial process remains an impartial inquiry into the truth rather than a mechanism for state-coerced confessions.[171]

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[168] Maria Chigozie Onuegbulam, Legal Analysis of the Doctrine of Presumption of Innocence and the Absurdity in Section 271 of the Criminal Code, *African Journal of Criminal Law and Jurisprudence*, Vol. 10, (2025), p. 50

[169] Federal General Attorney vs Bussines Lema, Federal Supreme Court Cassation Decision, File Number 185700, (2023)

[170] Ibid

[171] Boniphace Stephano Salawa, The Principle of Presumption of Innocence: A Human Rights

Consequently, any procedural framework such as a sentencing manual that penalizes an accused for maintaining their innocence or rewards an admission of guilt with liberty through probation directly undermines this fundamental human right. In conclusion, "pleading not guilty" is constitutionally granted human rights of the accused persons under the Ethiopian legal system.[172]

The privilege against self-incrimination is a cornerstone of the criminal justice system and a fundamental human right guaranteed to arrested and accused persons under the FDRE Constitution.[173] This privilege is a substantive protection that shields individuals from being compelled by the state to provide testimonial or communicative evidence that could lead to their own criminal liability.[174] Philosophically, the privilege is rooted in the autonomy of the individual and the adversarial principle, which dictates that the state must prove its case through independent investigation rather than by extracting evidence from the accused.[175] In the Ethiopian legal framework, this right is enshrined under article 20(3) of the FDRE Constitution, which stipulates that accused persons are "not to be compelled to testify against themselves."[176] This fundamental

Based Assessment of Laws and Practice in Tanzania, *East African Journal of Law and Ethics*, Vol. 8, No.1, (2025), p. 189

[172] Salamlak Atalay, Constitutionality of Burden and Standard of Proof under Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation No 117, LLM Thesis, Addis Abeba University, (2023), p. 21

[173] Wendmagegn Gebre Fentaye, The Right of Silence and Privilege against Self-Incrimination in Criminal Proceedings: An Appraisal of the Ethiopian Legal Framework, *Bahir Dar University Journal of Law*, Vol. 4, No. 2, (2014), p. 336

[174] Jordan Wallace, The Firsthand Theory: An Updated Rationale for the Privilege against Self-incrimination, *American Criminal Law Review*, (2023), p. 2

[175] John H. Langbein, Historical Origin of the Privilege Against Self Incrimination at Common Law, Michigan Law Review, Vol. 92, (1994), p. 1047; Janet Lee Hoffman, The Privilege Against Self-Incrimination in Civil Proceedings, Litigation Journal, Vol. 24, No. 1, (2005), p, 20

[176] FDRE Constitution article, 20 (3)

right is reaffirmed by the cassation precedent of the Federal Supreme Court, which ruled that:

> ***የወንጀልክስንክዶመከራከርበራስላይማስረጃ... ካለመሆንሕገ-መንግስታዊ መብት ጋር የተያያዘ በመሆኑ፣የወንጀል ክስ ያላመነ ሰው የቅጣት ውሳኔ ሊገደብለት አይገባም በሚ ል ትርጉም ሊሰጥበት የሚ ችል ጉዳይ አይደለም*** *177*

Through this binding precedent, the Cassation Court reaffirmed that conditioning eligibility for probation on an admission of guilt directly violates the constitutional right of the accused against self-incrimination. Denying a charge is a fundamental human right; therefore, no individual should be deprived of a statutory privilege or benefit solely for exercising a constitutionally protected right. Because the amended manual effectively penalizes the exercise of this right, it stands in direct contradiction to the privilege against self-incrimination.

Under article 14(3) (g) of the International Covenant on Civil and Political Rights, every accused person is entitled "not to be compelled to testify against himself or to confess guilt."[178] Locally, while the African Charter on Human and Peoples Rights does not explicitly recognize this right, the African Commission on Human and Peoples' Rights has interpreted the right to humane treatment under article 7(d) of the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa to mean that taking undue advantage of a detainee to compel a confession or self-incrimination is strictly prohibited.[179]

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[177] Federal General Attorney Vs. Bussines Lema, Federal Supreme Court Cassation Decision, File Number 185700, (2023)

[178] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 14(3)(g)

[179] African Commission on Human and Peoples' Rights, 'Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa' (2003) DOC/OS(XXX)247, art 7(d)

These instruments collectively affirm that the privilege is derived from the principles of natural justice and fairness, advocating that no person should be forced to be a witness against them.[180] Consequently, the accused has the right to enter a plea of not guilty, ensuring the burden of proof remains with the prosecution and the individual's dignity is preserved throughout the judicial process.[181]

However, the amended sentencing manual has incorporated a guilty plea as a precondition for the suspension of a sentence via probation.[182] Accordingly, a defendant who enters a plea of not guilty thereby exercising their right to the presumption of innocence and the right against self-incrimination is effectively deprived of the opportunity for a suspended sentence via probation. Accused who exercises their fundamental right to a trial and requires the state to prove its case "beyond a reasonable doubt" is systematically penalized. By pleading not guilty, the accused is automatically deprived of the 10% numerical weight assigned to an admission of guilt, often making it mathematically impossible to reach the 60% threshold required for the suspension of their sentence.

Conversely, a defendant who admits to the commission of the offense is granted a strategic advantage; they are afforded the opportunity to secure their liberty through probation primarily by waiving their constitutional protections. Therefore, enacting a plea of guilty as a precondition of probation is against article 19(2) &20(3) of the FDRE

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[180] Shivam Mani Tripathi, Right against Self-incrimination: A comparative Study, *Indian Journal of Integrated Research in Law,* Vol. 4, No. 6, (2024), p. 247

[181] Habtamu Getahun Abtaw, The Fate of Illegally Obtained Evidence in Ethiopian Criminal Process, LLM Thesis, Addis Ababa University, (2025), p. 23

[182] See Annex 3 of FDRE Criminal Sentencing Manual, Directive No. 3/2025

constitutions and ratified international human right instruments.[183] As it's enshrined under the FDRE Constitution 'any law, customary practice or a decision of an organ of state or a public official which contravenes with the constitution is null and void.'[184] Ultimately, the provision of the sentencing manual that prescribes plea of guilty as a precondition of probation is null and void.

B. Admission of Guilt as a Precondition of Probation vs. the Right to Remain Silent

The right to remain silent protects the accused from the physical or legal act of speaking, ensuring they can remain passive throughout investigations and trials without being forced to answer questions.[185] This right is not merely a procedural technicality but a substantive manifestation of the presumption of innocence.[186] At its core, the right to silence ensures that the burden of proof remains entirely with the prosecution, requiring the state to establish guilt beyond a reasonable doubt without any forced participation or assistance from the accused.[187]

In the Ethiopian legal framework, this right is recognized under article 19(2) and 20(3) of the FDRE Constitution, which protects the accused

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183 See FDRE Constitution, article 19(2) and 20(3)

184 FDRE Constitution Article, 9; Mohhamed Dilu Hussien, Constitutional Interpretation in Ethiopia, *Global Scientific Journals,* Vol. 8, No. 7, (2008), p. 1572

185 Arun Kumar Singh, Right to Silence and the Law: A Comparative Analysis, *Indian Journal of Law and Justice,* Vol.6, No. 1, (2015), p, 130

186 Michael Farrell, The Right to Silence and the Criminal Justice Bill, 2007, (The Criminal Justice Bill 2007: Implications for Law and Practice Conference, School of Law, Trinity College Dublin, 9 May 2007); Oana Elena Iacob, Brief Analysis of the Importance given to the Presumption of Innocence at International and National Level, *Athens Journal of Law*, Vol. 12, (2025), p,3

187 Frances Gordon, The Ratification and Implementation of Human Rights Covenants, (Sino-Canadian International Conference on the Ratification and Implementation of Human Rights Covenants, Beijing, 25–26 October 2001)

from any form of compulsion at any stage of criminal proceeding to speak or provide testimony.[188] Internationally, this protection is recognized in article 14(3)(g) of the International Covenant on Civil and Political Rights.[189] The African Charter on Human and Peoples Rights, through the interpretative Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, "emphasizes that the right to silence is absolute and that no adverse inference should be drawn from an accused person's refusal to speak."[190] From these frameworks its evident that forcing an individual to provide the primary evidence for their own conviction would render the entire concept of a fair trial illusory.[191]

Therefore, the incorporation of an admission of guilty as a weighted precondition for probation eligibility in the 2025 Amended Sentencing Manual creates a profound legal discrepancy. By assigning a numerical value to the admission of guilt, the judiciary has effectively institutionalized a form of indirect compulsion. While the manual may not employ physical coercion, it exerts psychological and legal pressure by conditioning the enjoyment of statutory benefit probation on the waiver of a constitutional right. When the exercise of the right to remain silent leads to a penalty in the form of a mathematical disadvantage resulting in incarceration rather than a suspended sentence the right ceases to be a protection and instead becomes a liability for the accused

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[188] Metages Tewabe, Yohannes Debebe and Melese Abebe, The Rights to Remain Silent under Ethiopian legal framework and Its Implementation: The Case of Bale Zone, *International Journal of Police Science, Justice and Development*, Vol. 2, No.1, (2025), p, 93

[189] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 14(3)(g)

[190] African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, (2003) DOC/OS(XXX)247, article 6(d)(1)

[191] Shivam Mani Tripathi, Right Against Self-incrimination: A Comprehensive Study, *Indian Journal of Integrated Research in Law*, Vol. 5, No. 6, p, 248

who exercises it. Consequently, a defendant who maintains their right to remain silent is systematically deprived of an equal opportunity to enjoy probation.

C. The principle of Equality vs. Amended Sentencing Manual

The principle of equality is the bedrock of any criminal justice system.[192] It advocates for the equal treatment of all persons before the law and the uniform application of legal standards without discrimination.[193] This principle is explicitly enshrined in Article 25 of the FDRE Constitution, article 3 of the FDRE Criminal Code, and various international human rights instruments ratified by Ethiopia.[194]

However, the 2025 Amended Sentencing Manual fundamentally erodes this guarantee. Firstly, the limited applicability of the preconditions for probation restricted solely to three specific offenses demonstrates that defendants charged with any other crime are categorically denied the opportunity for a suspended sentence. This remains true even if such defendants demonstrate the same level of reform or character as those eligible under the manual. This selective application violates the right to equality, as it deprives certain defendants of the privilege to suspend the enforcement of their sentence through probation, even if they have fulfilled the minimum 60% threshold. Consequently, the manual grants a unique discretionary benefit to those who commit these three specific offenses while denying other offenders the ability to enjoy the same legal privilege.

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[192] Donald Braman, Criminal Law and the Pursuit of Equality, *Texas Law Review,* Vol. 84, (2006), p. 1

[193] Christian Whata, Equality Before the Law and Criminal Justice, Te Tai Haruru Journal of Māori and Indigenous Issues, Vol. 7, (2020), p. 32

[194] Civil Society Report on the Implementation of the International Covenant on Civil and Political Rights in Ethiopia, 136th session of the Human Rights Committee October 2022

Secondly, the manual penalizes those who exercise their fundamental human rights as granted by established legal frameworks. It creates a state of systemic inequality between defendants who admit to the commission of an offense and those who deny it. Even when the crime was committed, the defendant's prior behavior, and other mitigating circumstances are identical, the manual treats them differently based solely on their plea. This structure effectively deprives defendants of their rights as a direct consequence of exercising them, transforming constitutional protections into a legal disadvantage.

6. Conclusion

The 2025 Amended Sentencing Manual creates a crisis of legality in Ethiopia by overstepping judicial authority and undermining fundamental rights. By creating new preconditions for probation not stated in the FDRE Criminal Code, the Federal Supreme Court exceeded its delegated powers under Article 88(4). Moreover, assigning a 10% numerical weight to an admission of guilt will force defendants to surrender their constitutional right against self-incrimination to qualify for probation. This creates an unconstitutional trial penalty, directly defying binding precedents set by the Federal Supreme Court Cassation Division and violating the principle of equality before the law.

To resolve these legal defects, a coordinated effort across state institutions is necessary. First, the House of Federation must review the manual and declare the admission of guilt precondition null and void under Article 9(1) of the FDRE Constitution for violating fair trial rights. Simultaneously, the House of Peoples Representatives should exercise its primary authority by enacting a comprehensive statutory framework on probation criteria, drawing inspiration from comparative models like Kenya and India to guide judicial discretion legally without breaching the separation of powers. Internally, the Federal Supreme Court must take immediate responsibility to revise the manual and decouple confessions from the point-based scoring system. Furthermore, public prosecutors should proactively petition for probation on behalf of eligible, unrepresented defendants to fulfill their duty as guardians of legality.

Declaration of Generative AI and AI-assisted Technologies in the Writing Process

During the preparation of this work the author used ChatGPT for grammatical editing and language polishing. After using this tool, the author reviewed and edited the content as needed and takes full responsibility for the content of the published article. The core legal analysis, arguments and conclusions are entirely the authors own.

Internal Displacement and Vulnerability to Human Trafficking in Ethiopia: A Critical Assessment of Legal and Institutional Protection Frameworks

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Abstract

This article examines the relationship between internal displacement and vulnerability to human trafficking in Ethiopia, highlighting how forced displacement driven by conflict, climate shocks, and development-induced evictions heightens vulnerability to exploitation. Furthermore, it assesses the adequacy of Ethiopia's legal and institutional responses to these intersecting crises. Displaced populations, often lacking legal recognition, secured shelter, or access to livelihoods, are systematically targeted for sexual exploitation, forced labor, and organ removal. Adopting a multidisciplinary human rights framework, this study employs qualitative legal analysis alongside secondary data from international and national monitoring agencies, including the IOM, UNHCR, and the EHRC. It evaluates Ethiopia's legal landscape and institutional architecture, utilizing judicial antecedents and empirical reports to identify systemic gaps in protection and coordination. Through this approach, the study analyzes the scale, root causes, and human impact of internal displacement, evaluates Ethiopia's legal and institutional mechanisms for protecting internally displaced persons (IDPs) and trafficking victims, and identifies gaps in enforcement, coordination, and victim-centered approaches. The findings underscore that internal displacement is both a

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humanitarian and a human rights crisis that significantly increases vulnerability to human trafficking, underscoring the need for integrated, rights-based policies and protection systems to safeguard the dignity, safety, and rights of vulnerable populations.

Key Terms: Human Trafficking, IDPs, Irregular Migration, Internal Displacement, Human Rights

1. Introduction

Human trafficking and internal displacement have emerged two of the most pressing and interlinked human rights challenges in contemporary Ethiopia.[1] While each phenomenon has its own causes and manifestations, their interaction produces a compounded crisis that exposes millions of vulnerable Ethiopians to exploitation, violence, and rights violations. Internal displacement driven by armed conflict, climate related shocks, and a development-induced eviction weakens or destroys family support structures, community bonds, and self-protection mechanisms. This creates fertile ground for traffickers who appear to offer life-saving access to employment, safety, or migration pathways.[2] As a result, IDPs constitute one of the groups most at risk of trafficking for forced labor, sexual exploitation, child trafficking, and irregular migration.

According to recent reports of International Organization for Migration (IOM), Internal Displacement Monitoring Centre (IDMC), United Nations High Commissioner for Refugees (UNHCR), Ethiopia hosts one of Africa's

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[1] U.S. Department of State, 2024 Trafficking in Persons Report: Ethiopia (2024), https://www.state.gov/reports/2024-trafficking-in-persons-report/ethiopia/ (last visited Sept. 4, 2025).

[2] UNHCR, Handbook for the Protection of Internally Displaced Persons: Action Sheet 7- Human Trafficking (2007) 218-219, https://www.unhcr.org/sites/default/files/legacy-pdf/4794b4322.pdf (last visited Sept. 4, 2025).

largest internally displaced populations.[3] Displacement continues to rise due to recurrent conflict in regions such as Tigray, Amhara, and Oromia, as well as extreme drought and flooding exacerbated by climate change, and state-led development projects that lack adequate safeguards. For many displaced households cut off from land, employment, and social networks, the struggle for survival increases susceptibility to traffickers operating domestically and transnational, particularly along routes to the Middle East, North Africa, and Southern Europe.[4] Children and women are disproportionately targeted, often under the guise of domestic work opportunities, education, or protection.[5] Consequently, internal displacement is not merely a humanitarian crisis but one of the principal drivers of human trafficking in Ethiopia.[6]

Although Ethiopia ratified major international and regional treaties including the United Nations Convention against Transnational Organized Crime (UNTOC), its supplementing protocol to prevent, suppress and punish trafficking in persons, especially women and children (Palermo Protocol), and African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and has enacted domestic laws criminalizing trafficking and protecting IDPs, significant gaps persist in enforcement, coordination, and victim-centered protection.[7] Institutional weaknesses, limited resources, and recurring

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[3] Internal Displacement Monitoring Center (IDMC), Country Profile: Ethiopia (May 14, 2025), internal-displacement.org (last visited Sept. 4, 2025); UNHCR, Ethiopia: Refugees and Internally Displaced Persons (June 30, 2025), unhcr.org (last visited Sept. 4, 2025).

[4] Getye AbnehTadesse and Tesfaye Tafesse, *Conflict-driven Human Trafficking, Internally Displaced Persons and Legal Responses in Ethiopia: The Northern Conflict in Focus*, 36 Small Wars & Insurgencies 1135 (2025).

[5] Ibid.

[6] *Supra* note 4.

[7] U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2023 Country Reports on Human Rights Practices: Ethiopia (Apr. 22, 2024), https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/ethiopia/ (last visited Sept. 4, 2025).

insecurity hinder the state's capacity to prevent displacement, protect vulnerable communities, and effectively prosecute traffickers. As a result, large numbers of IDPs remain exposed to exploitation while seeking livelihood opportunities or attempting irregular migration.

This article examines the relationship between internal displacement and human trafficking in Ethiopia through a multidisciplinary human rights lens. It seeks to (i) clarify the scope, drivers, and intersections of displacement and trafficking; (ii) assess the adequacy of Ethiopia's legal and institutional responses; and (iii) propose practical, rights-based recommendations to strengthen protection mechanisms. By situating Ethiopia's contemporary experience within broader international norms and comparative practices, the paper argues that addressing trafficking requires confronting the structural drivers of displacement and improving state capacity to protect and assist internally displaced persons.

The paper is organized into four parts. The first part outlines the conceptual framework governing internal displacement and human trafficking, highlighting the interrelationship between the two concepts. The second part examines the drivers and patterns of displacement and trafficking in Ethiopia, drawing on recent reports and empirical evidence. The third part evaluates the legal and institutional frameworks at international, regional, and domestic levels, assessing the adequacy of Ethiopia's response to the internal displacement led human trafficking. Finally, the fourth part offers policy recommendations grounded in the international 4Ps framework (Prevention, Protection, Prosecution, and Partnership). These recommendations are aimed at strengthening accountability and ensuring a human rights-centered approach for vulnerable populations in Ethiopia.

2. Conceptual and Theoretical Framework

A clear legal-conceptual foundation is necessary to analyze the intersection of human trafficking and internal displacement in Ethiopia. While both concepts have distinct meanings under international and domestic law, their practical interconnection is often misunderstood. This section establishes the normative definitions of these terms as provided by the Palermo Protocol and the FDRE Constitution, exploring how these legal boundaries overlap in the Ethiopian context.

2.1. The Conceptual Understanding of Human Trafficking under International and Domestic Legal Frameworks

The authors of this study believe that the proper appreciation of human trafficking requires examining its definition under both international and domestic legal framework. Since Ethiopia is a party to major international and regional instruments and incorporates anti-trafficking measures into its national legislation, clarifying the concept of human trafficking in light of these instruments is essential.

A. Human Trafficking under the Palermo Protocol

Until December 2000, the term “Human Trafficking” was not defined in international law, despite its incorporation in several international legal instruments.[8] The long-standing failure to develop an agreed-upon definition of trafficking in persons reflected major differences of opinion concerning the ultimate end result of trafficking, its constitutive acts and their relative significance, as well as similarities and differences between

[8] UNODC, The International Legal Definition of Trafficking in Persons: Consolidation of Research Findings and Reflection on Issues Raised (2018), humantraffickingsearch.org (last visited Sept. 6, 2025).

trafficking and related issues such as irregular migration and the facilitated cross-border movement of individuals into prostitution or irregular employment.[9]

The most reputable and recent instruments of international law that have set the course for how to define, prevent, and prosecute human trafficking are UNTOC and its two protocols: the Palermo protocol and the United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air.[10] Specifically, the Palermo protocol is considered to be "the principal, legally binding global instrument to combat trafficking in persons," setting out the very first international legal definition of "trafficking in persons".[11] The Palermo protocol defines trafficking in persons as: ¶

"...the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."[12]

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Under the Palermo Protocol's definition, human trafficking is identified by the convergence of three specific components: (1) The "Act": This involves

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[9] Ibid.

[10] Lindsey King, *International Law and Human Trafficking*, Topical Research Digest: Human Rights and Human Trafficking (2015), http://www.du.edu/korbel/hrhw/researchdigest/trafficking/InternationalLaw.pdf(last visited Sept. 6, 2025).

[11] Supra Note 8.

[12] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 2000, Art 3, available at, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime | OHCHR, [hereinafter Palermo Protocol]**.**

the physical process of the crime, specifically the recruitment, transportation, transfer, harboring, or receipt of individuals; (2) The "Means": This refers to the methods used to gain control over a person, including threats, physical force, coercion, abduction, fraud, or deception. It also critically includes the abuse of power or the exploitation of a position of vulnerability; (3) The "Purpose": The ultimate objective must be exploitation, which encompasses sexual exploitation, forced labor, servitude, slavery-like practices, or the removal of human organs."[13]

The critical point here is that all three elements must be present to constitute "trafficking in persons" except in relation to trafficking of children for which the "means" element is not required. The consent of a victim in trafficking is specified as also irrelevant when any of the stipulated "means" are used.[14] Despite the comprehensive and universally accepted definition provided by the Protocol and the harmonization of national laws—such as Ethiopia's Proclamation No. 1178/2020, the functional parameters of what constitutes "trafficking" are not yet firmly established.[15] The definition remains "complex and fluid" primarily because it includes concepts like the "abuse of a position of vulnerability," which are not defined elsewhere in international law or common to all legal systems. This interpretative fluidity creates a persistent tension between expansive interpretations that seek to cover all forms of severe exploitation and restrictive interpretations intended to set clear legal boundaries for criminal prosecution.

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[13] The Law Institute**,** Law Policies and Institutional Response to Human Trafficking: International Legal Instruments and Conventions Addressing Human Trafficking (Nov. 3, 2023), the law.institute (last visited Sept. 6, 2025).

[14] Ibid.

[15] UNODC, *Abuse of a position of vulnerability and other "means" within the definition of trafficking in persons*, Issue Paper, 2013, p.8, available at Abuse of a position of vulnerability and other "means" within the definition of trafficking in persons last accessed at 6 May 2026.

B. Human Trafficking in light of FDRE Constitution and Domestic Laws

Although the FDRE Constitution clearly prohibits slavery, servitude, and human trafficking, it does not offer a clear legal definition of human trafficking. Without a constitutional definition, the legal meaning comes from domestic laws and international agreements. However, Article 3(1) of the Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation No. 1178/2020 defines human trafficking according to the Palermo Protocol.

"Any person who holds another person in slavery or practices similar to slavery, servitude or debt bondages; exploited in removing organs or prostitution or other forms of sexual activities of another person; engages another person in forced labor or service, begging or criminal act, forced marriage, surrogacy, or exploited children in labor, or commit exploitation similar to these acts shall be punishable…"

According to the above definition and the subsequent stipulations provided under the Proclamation, the three basic elements—the act, the means, and the purpose—constitute the essential components of the offence of trafficking in persons.[16] The above definition takes a structured, behavior-based approach to set trafficking apart from related offenses like migrant smuggling. Unlike previous fragmented methods, the current legal framework offers clearer concepts by including both the actions and the exploitative purpose necessary for trafficking to happen. This change brings domestic law closer to international standards under the Palermo Protocol.

[16] Article 3(1) of the Anti-Human Trafficking and Smuggling of Migrants Proclamation No. 1178/2020

C. Distinction between Trafficking and Smuggling

Human trafficking and human smuggling are often confused. These two crimes are, however, very different and it is critical to understand the difference between the two. First and foremost, while human trafficking involves exploiting men, women, or children for the purposes of forced labor or commercial sexual exploitation, human smuggling involves the provision of a service typically, transportation or fraudulent documents to an individual who voluntarily seeks to gain illegal entry into a foreign country.[17] Secondly, smuggling crosses international borders. Whereas, trafficking can happen across international borders, or within one country, it can involve movement between cities, towns, rural locations, or even from one street to the next.[18]

The third difference lays on consent. Smuggling is a service a person asks for. It might be dangerous, but that person chooses to take on the journey. However, Trafficking involves either forcing a person to travel, or deceiving a person into taking on a journey under false promises of jobs, payment or safety at the end of that journey.[19] In addition, smuggling is limited to a single financial transaction in exchange for illegal entry into a country; once the payment and border crossing are complete, the person is free to make their own choices, whereas trafficking involves the use of threat, force, coercion, or deception to exploit a person, who may be subjected to abuse either during the journey or at the final destination.[20]

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[17] U.S. Immigration and Customs Enforcement (ICE**),** Human Trafficking vs. Human Smuggling**,** 13(1**)** Cornerstone Report (2017) ice.gov (last visited Sept. 6, 2025)

[18] Stop The Traffik, Smuggling or Trafficking: Knowing the Difference (Oct. 20, 2017), stopthetraffik.org (last visited Sept. 6, 2025)

[19] Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation, 2020, *Federal Negarit Gazzeta*, Proc.No.1178, 26th Year, No.31, Art.3(5).

[20] Ibid.

Smuggling can also have negative consequences, such as enabling the illicit trade of drugs or weapons, but it does not inherently involve severe harm to individuals. Trafficking, however, inflicts significant physical, emotional, and psychological harm on its victims, leaving them traumatized and trapped in exploitative situations.[21] To sum up, trafficking and smuggling are two distinct but interconnected illegal activities which involve the movement of people.

2.2. Understanding Internally Displaced Persons (IDPs)

Internal displacement refers to the forced movement of people within the country they live in. According to the Guiding Principles on Internal Displacement, IDPs are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border.[22] The Kampala Convention provides a similar definition, but with the added force of being a legally binding regional instrument, emphasizing state obligations to protect, assist, and provide durable solutions for IDPs within African countries.[23]

2.2.1. Causes of Internal Displacement in Ethiopia

Scholars like Termini ski distinguishes four root causes of internal

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[21] UNODC, Module 11 Smuggling of Migrants and Trafficking in Persons - Differences and Commonalities, available at https://sherloc.unodc.org/cld/en/education/tertiary/tip-and-som/module-11/key-issues/comparing-som-and-tip.html last accessed on 8 August 2026

[22] United Nations, *Guiding Principles on Internal Displacement*, Office for the Coordination of Humanitarian Affairs (OCHA), (1998), Guiding Principles on Internal Displacement | UNHCR last accessed at 6 Sept. 2025.

[23] African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Oct 23, 2009), 3014 U.N.T.S. 52375, Art 1

displacement world-wide, which he calls the dominant classification of internal displacement including conflict-induced, environmentally induced, disaster-induced and development-induced internal displacement.[24] Despite noteworthy socioeconomic growth over the past two decades, Ethiopia remains highly susceptible to climate driven shocks and has faced devastating conflict with continuing violence, and insecurity in some areas of the country. Although the ceasefire between the government and the Tigray People's Liberation Front (TPLF) continues to hold in northern Ethiopia, insecurity in the country persists, exacerbating humanitarian needs and heightening the risk of a resurgence of large-scale conflict.[25] Taking this, it is indicated that conflict (armed conflict, inter-communal violence, regional political instability and localized conflict), climate (landslides, flooding, famine and drought), large-scale developmental projects and poor governance have been the major contributing factors which aggravated the internal displacement in Ethiopia.[26]

A. Conflict-Induced Internal Displacement in Ethiopia

Ethiopia consistently ranks among the top three countries worldwide alongside the Democratic Republic of Congo (DRC) and Syria with the largest number of conflict-related internally displaced persons (IDPs). According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), as of June 2024 an estimated 4.5 million people were internally displaced across the country, of which 73%

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[24] Bogumil Terminiski, Development-Induced Displacement and Resettlement: Theoretical Frameworks and Current Challenges, (September 2013), available at https://dlc.dlib.indiana.edu/dlc/items/fbb3e639-8b45-40f8-8d00-789478b97171 last accessed 8 August 2026

[25] International Rescue Committee**,** Crises in Ethiopia: What You Need to Know and How to Help (May 21, 2024), rescue.org (last visited Dec. 8, 2025).

[26] Tadele Akalu Tesfaw, Internal Displacement in Ethiopia: A Scoping Review of its Causes, Trends and Consequences, *Journal of Internal Displacement Volume* 12 Number 1, (2022) , pp8-11

(approximately 3.29 million individuals) were uprooted by conflict and violence.[27]

The International Organization for Migration (IOM), through its Displacement Tracking Matrix (DTM), reported that between July and August 2024, around 1.92 million IDPs (437,936 households) were identified across 2,060 accessible sites. Within this population, 82.1% (1.58 million people) were displaced due to conflict, followed by smaller proportions attributed to social tensions and drought.[28]

Conflict-induced displacement in Ethiopia is driven by a combination of armed clashes, inter-communal violence, and regional political instability. Major hot-spots include Oromia, Amhara, Somali, and Tigray regions, where persistent insecurity continues to uproot populations and hinder durable solutions.[29] The overwhelming scale of conflict-induced displacement accounting for nearly three-quarters of all IDPs, underscores the centrality of violence and insecurity in Ethiopia's displacement crisis, while also interacting with other drivers such as climate stress and governance challenges.[30]

B. Climate and Disaster – Induced Internal Displacement

While conflict remains the primary driver of internal displacement, Ethiopia is also extremely vulnerable to climate and environmental shocks. Prolonged droughts, irregular rainfall patterns, flooding, and related events

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[27] OCHA, Ethiopia: *Internal Displacement Overview (as of June 2024)*, (4 July 2024), available at Ethiopia: Internal Displacement Overview (as of June 2024) | OCHA last accessed at 9 Sept. 2025.

[28] International Organization for Migration (IOM), Ethiopia National Displacement Report 20: Site Assessment Round 37 and Village Assessment Survey Round 20 (July – August 2024**)** available at https://dtm.iom.int/reports/ethiopia-national-displacement-report-20-july-august-2024 last accessed at 8August 2026

[29] OCHA Report, Supra Note 30.

[30] Ibid.

have displaced significant populations, particularly in the Afar, Somali, Oromia, and Southern regions. The OCHA June 2024 overview notes that recurrent drought and food insecurity have forced households to abandon their homes in search of water, pasture, and humanitarian assistance.[31] Similarly, the IOM DTM report covering July–August 2024 estimates that 75,993 individuals were displaced due to drought and climate-related hazards.[32] In addition to these slow-onset pressures, Ethiopia experiences sudden-onset disasters such as flooding, landslides, and disease outbreaks. Seasonal floods, for instance along the Awash and Omo river basins, regularly destroy homes, displace communities, and disrupt humanitarian access.[33]

C. Development- Induced Displacement in Ethiopia

Urban development initiatives such as the Addis Ababa Corridor Development Project and expansion in Sheger City constitute a significant driver of internal displacement in Ethiopia.[34] Evidence from urban development studies indicates that large-scale redevelopment and infrastructure projects frequently necessitate the eviction and relocation of residents, thereby directly generating internally displaced persons (IDPs), particularly among low-income and informally settled populations.[35]
These processes of eviction and relocation often occur in contexts where

[31] Ibid~~.~~
[32] IOM Report, Supra note 31, p.4.
[33] Amani Africa, Climate Induced Conflicts: Sources of Insecurity in Africa (May 21, 2016), https://amaniafrica-et.org/insights-on-the-psc-session-on-climate-induced-conflicts-sources-of-insecurity-in-africa/ (last visited Sept. 9, 2025).
[34] Tadele Akalu Tesfaw, *Supra* note 26, pp.2-31
[35] U.N. Human Settlements Program (UN-Habitat), World Cities Report 2020: The Value of Sustainable Urbanization (2020). See also, Endalew Terefe Alene, The Effect of Urban Redevelopment Induced Displacement and Resettlement on Social Capital in Ethiopia, 2021, p.5, 9-11. See also Gedefaw Sewenet and Endalsasa Belay, Causes and Impacts of Internal Displacement in Ethiopia, *African Journals Online* (AJOL), Vol.9, No.2, pp.32-41, 2019, p. 33.

tenure insecurity prevails, meaning affected populations lack formal legal protection against displacement. As a result, many households are compelled to move without adequate compensation or viable resettlement options, reinforcing their status as IDPs and exposing them to heightened socioeconomic vulnerability.[36] And development-induced displacement is not merely temporary but can lead to prolonged or repeated displacement. Displaced households relocated to peripheral or underdeveloped areas frequently face inadequate access to housing, services, and livelihoods, increasing the risk of secondary displacement and entrenching cycles of internal displacement.[37]

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D. Governance- and Social Tension-Induced Internal Displacement

Poor governance, otherwise termed as bad governance (such as poor security and human rights violation), factors related to development programs are identified as the fourth contributing drivers of forced internal migration and or displacement in Ethiopia.[38] According to the IOM report, 8.6% (165, 561) of IDPs has been induced by social tension.[39] Oromia region hosts the highest number of IDPs displaced due to social tension (an estimated 159,113 IDPs or 96.1% of the assessed caseload of IDPs displaced due to social tension).[40]

3. Legal and Institutional Framework for Protection against

[36] World Bank, Ethiopia Urbanization Review: Urban Institutions for a Middle-Income Ethiopia (2019).

[37] Internal Displacement Monitoring Centre (IDMC), Global Report on Internal Displacement 2021 (2021)

[38] Gedifew Sewenet, *supra* note 35 p.37

[39] IOM Report, Supra Note 32, p.8

[40] *Id*, p.10

Human Trafficking and Internally Displaced Persons (IDPs) in Ethiopia

3.1. The International Legal Framework

Ethiopia's international obligations regarding human trafficking and the protection of internally displaced persons (IDPs) are deeply rooted in binding treaties and reinforced by customary international law and soft law instruments. These obligations serve as the cornerstone for defining state responsibility, guiding policy, and establishing standards for human rights protection.

The United Nations Convention against Transnational Organized Crime (UNTOC) represents the principal international instrument addressing cross-border criminal activities, including trafficking. Ethiopia ratified the *United Nations Convention against Transnational Organized Crime* and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* and *Protocol Against the Smuggling of Migrants by Land, Sea and Air*. By ratifying UNTOC, Ethiopia commits to combating organized crime through legislative harmonization, criminalization, and international cooperation mechanisms.[41] The Convention provides a platform for mutual legal assistance, cross-border investigations, and extradition of offenders, all of which are essential to address trafficking networks operating across borders.[42] Complementing UNTOC, the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, establishes specific obligations for preventing trafficking, prosecuting offenders, and protecting victims. Its Article 3(b) emphasizes

[41] Ibid

[42] UN Conference of the Parties to the Convention against Transnational Organized Crime, Draft Report: Working Group on International Cooperation (Mar. 17, 2025), UN Doc. CTOC/COP/WG.3/2025/3.

that the consent of a victim is irrelevant when coercion, deception, or abuse of power is involved.

Article 6 of the Palermo Protocol articulates a victim-centered approach that integrates protection, participation, and recovery within the broader framework of anti-trafficking efforts. It reflects an evolution from a predominantly punitive model toward one that recognizes trafficked persons not merely as sources of evidence for criminal prosecution, but as rights holders entitled to dignity, security, and effective remedies. This shift has significant legal and practical implications. By placing victims at the center of anti-trafficking responses, the Protocol requires States Parties to adopt measures that extend beyond the criminalization and prosecution of offenders to include comprehensive mechanisms for victim protection, rehabilitation, and social reintegration. Accordingly, Article 6 obliges states to safeguard the privacy and identity of victims, recognizing that confidentiality is essential to protect them from retaliation, social stigma, and further psychological harm while also encouraging their willingness to cooperate with law enforcement authorities. The provision further strengthens victims' procedural rights by requiring that they be informed of relevant legal proceedings and afforded an opportunity to present their views and concerns at appropriate stages of criminal or administrative processes. This represents a departure from traditional criminal justice models in which victims were treated primarily as evidentiary tools, instead affirming their role as active participants whose interests deserve independent legal recognition, while maintaining the balance with the accused's right to a fair trial.

Moreover, Article 6 adopts a holistic understanding of victim recovery by acknowledging that the consequences of trafficking extend far beyond immediate physical exploitation. It therefore encourages States Parties to provide appropriate housing, medical and psychological care, counseling, educational opportunities, and employment assistance, often in cooperation with non-governmental organizations and civil society actors. Such measures recognize that effective protection cannot be achieved solely through criminal sanctions but requires sustained social and economic support that enables survivors to rebuild their lives and reduces their vulnerability to re-trafficking. Nevertheless, the effectiveness of this victim-centered framework is tempered by the qualifying language employed in the provision, particularly phrases such as "in appropriate cases" and "to the extent possible under domestic law." While these qualifications allow states to adapt implementation to their legal and institutional contexts, they also leave considerable discretion that may result in uneven standards of protection and significant disparities in victim assistance across jurisdictions. Consequently, the realization of the Protocol's victim-centered approach ultimately depends on the extent to which States Parties incorporate these obligations into domestic legislation, allocate sufficient resources, and demonstrate sustained political commitment to their implementation.

At the outset, the provision places significant emphasis on safeguarding the privacy and identity of victims. This obligation acknowledges the heightened vulnerability of trafficked persons to retaliation, social stigma, and psychological harm. By requiring confidentiality in legal proceedings, the Article seeks not only to protect victims from further harm but also to foster an environment in which they are more willing to cooperate with authorities. In this sense, victim protection is framed as both a human rights imperative and a practical necessity for effective law enforcement.

In addition, the Article advances the procedural rights of victims by mandating access to information and facilitating their participation in legal and administrative processes. This marks a departure from traditional approaches in which victims were treated primarily as evidentiary tools. Instead, it affirms their role as active participants whose views and concerns should be considered at appropriate stages of proceedings. The requirement that such participation must not prejudice the rights of the defense highlights the need to balance victim inclusion with fundamental fair trial guarantees, thereby preserving the integrity of the justice system.

Furthermore, the Article adopts a comprehensive understanding of recovery, recognizing that the harms associated with trafficking extend beyond immediate physical exploitation. The inclusion of measures such as housing, counseling, medical and psychological care, and access to education and employment underscores the need for long-term reintegration strategies. The explicit reference to cooperation with non-governmental organizations and civil society actors further indicates an appreciation of the multifaceted nature of victim support, as well as the limitations of state capacity in addressing complex social and economic needs.

Nevertheless, the qualifying language embedded in the provision particularly phrases such as “in appropriate cases” and “to the extent possible under domestic law” introduces a degree of discretion that may affect uniform implementation. While such flexibility allows states to adapt measures to their legal and institutional contexts, it also risks creating disparities in the level of protection afforded to victims. Consequently, the effectiveness of Article 6 is closely tied to the extent of domestic commitment, legislative incorporation, and resource allocation. Overall, Article 6 operates at the intersection of criminal justice and human rights, emphasizing that combating trafficking require not only the prosecution of offenders but also the meaningful protection and empowerment of victims.

Beyond anti-trafficking treaties, Ethiopia is bound by core human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to life and prohibits torture or cruel treatment.[43] These protections are critical for both trafficking victims and IDPs, who frequently face extreme physical and psychological harm.[44] Similarly, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) recognizes the right to an adequate standard of living and health, highlighting the necessity of ensuring food, shelter, and medical care for displaced populations.[45]

The Convention on the Rights of the Child (CRC) is also particularly relevant, as children constitute one of the groups most vulnerable to trafficking, especially in situations of displacement where family separation, loss of livelihoods, disruption of education, and weakened protection mechanisms significantly increase the risk of exploitation.[46] Accordingly, Article 35 of the CRC obliges States Parties to take all appropriate national, bilateral, and multilateral measures to prevent the abduction, sale, or trafficking of children for any purpose or in any form, while Article 34 requires states to protect children from all forms of sexual exploitation and sexual abuse. These obligations provide an important legal framework for protecting internally displaced children from trafficking and related forms of exploitation.

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[43] Civil society report on the implementation of the International Covenant on Civil and Political Rights in Ethiopia 136th session of the Human Rights Committee October 2022

[44] The Relationship of Trauma to Mental Disorders Among Trafficked and Sexually Exploited Girls and Women, Accepted: December 10, 2009, Published Online: September 20, 2011

[45] International Covenant on Economic, Social and Cultural Rights (Dec 16, 1966), Art.9, 11 &12. [hereinafter ICESCR]

[46] United Nations Office on Drug and Crime (UNODC), Global Report on Trafficking in Persons, 2016, p.11. See also, The Inter-Agency Coordination Group against trafficking in Persons (ICAT), Trafficking in Children, Issue Brief, 2018, pp.1-4.

International Labor Organization (ILO) conventions, including the Forced Labor Convention No. 29, Minimum Age Convention No. 138, and Worst Forms of Child Labor Convention No. 182, provide specific labor-related protections.[47] They obligate Ethiopia to eliminate forced labor and the worst forms of child labor, which intersect directly with human trafficking. These instruments further reinforce the notion that trafficking is not merely a criminal concern but a labor and economic rights violation as well.[48] Customary international law, derived from consistent state practice and opinio juris, complements treaty obligations by creating norms that are universally binding. Prohibitions against slavery, forced labor, and inhumane treatment are recognized as customary international law,[49] meaning that Ethiopia, even in the absence of specific treaty provisions, is legally obliged to prevent these violations. These norms serve as a foundation for prosecuting trafficking offenses and safeguarding IDPs.[50]

Soft law instruments, though not legally binding, have a profound influence on Ethiopia's policies.[51] The Guiding Principles on Internal Displacement outline the rights and protections of IDPs and provide practical guidance for state authorities. While these principles lack enforce-ability in courts, they shape national policies and inform humanitarian interventions, ensuring that Ethiopia aligns with international best practices in IDP protection.[52] The convergence of binding treaties, customary norms, and

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[47] International Labor Organization (ILO), ILO Conventions on Child Labor (n.d.), ilo.org (last visited Apr 7, 2026

[48] Ibid

[49] Stuart Casey-Maslen, the Right to Life under International Law: An Interpretative Manual 132–33 (Cambridge Univ. Press 2021).

[50] Ibid

[51] The Model Law on Access to Information for Africa and other regional instruments: Soft law and human rights in Africa Edited by Ololade Shyllon

[52] OCHA, Guiding Principles on Internal Displacement (1998), https://api.internal-displacement.org/sites/default/files/publications/documents/199808-training-OCHA-guiding-principles-Eng2.pdf (last visited Apr 7, 2026)

soft law provides Ethiopia with a multi-layered framework for addressing human trafficking and IDP protection.[53] Taken together, these instruments obligate the state to prevent violations, criminalize perpetrators, protect victims, and cooperate internationally. They also establish clear standards against which Ethiopia's domestic legal and policy measures can be evaluated.

3.2. Regional Legal Framework

Ethiopia's regional obligations complement its international commitments, particularly through instruments developed under the African Union (AU).[54] Regional frameworks not only reflect Africa-specific challenges but also emphasize the collective responsibility of states to prevent human rights violations.[55] The African Charter on Human and Peoples' Rights (ACHPR) serves as the foundational human rights instrument in Africa guaranteeing the right to life, prohibiting torture, and protecting individual dignity.[56]

For children, the African Charter on the Rights and Welfare of the Child (ACRWC) supplements global obligations by recognizing region-specific vulnerabilities including trafficking, forced labor, and exploitation.[57] Ethiopia is required to adopt legislative measures and policies to prevent child trafficking, protect victims, and prosecute offenders, integrating both

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[53] Zelalem Shiferaw Woldemichael, Prevention of Human Trafficking in Ethiopia: Assessing the Legal Framework, *Hasanuddin Law Review,* Vol. 3 No. 3 (2017), p. 208

[54] African Union & NANHRI, Declaration and Call to Action: Seventh African Union/NANHRI Policy Dialogue on the State of NHRIs in Africa (May 20, 2025), nanhri.org (last visited Apr. 7, 2026).

[55] Ibid

[56] The African Charter on the Rights and Welfare of the Child (ACRWC), OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999, Art.4 and 5.

[57] *Id*., Art.15, 25, 27 & 29.

preventive and remedial measures.[58] A pivotal regional instrument is the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, commonly known as the Kampala Convention.[59] Ethiopia ratified the Convention in 2020, committing to prevent displacement, protect and assist IDPs, and promote durable solutions.[60] The Kampala Convention establishes that states bear the primary responsibility to protect, respect, and assist internally displaced persons (IDPs) within their territories.[61] Under Article 3, states are obligated to prevent arbitrary displacement by addressing its root causes, including political, social, and economic exclusion. They must uphold human dignity, ensure equality before the law, and protect IDPs in line with human rights and humanitarian law. States are also required to ensure accountability for acts of arbitrary displacement, whether committed by state agents, non-state actors, or private entities such as multinational corporations. They must guarantee that humanitarian organizations have unhindered access to IDPs and promote sustainable solutions that support self-reliance while ensuring continued protection and assistance.[62] Building on this, Article 4 emphasizes proactive state duties to prevent and protect against arbitrary displacement. States must establish early warning systems, disaster preparedness measures, and risk-reduction strategies to avoid conditions that could trigger displacement. Importantly, the Convention prohibits displacement based on racial, ethnic, or political

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[58] Amare Tesfaye, Child Rights Protection in Ethiopia: Critical Analysis of the Statutory Rape Provisions of the Criminal Code and Their Application. *Beijing Law Review*, Vol.8 No.4 (2017)

[59] The Kampala Convention: Key Recommendations Ten Years On protected persons: internally displaced peoples, Publication 27-01-2020

[60] Press Release UNHCR welcomes Ethiopia's ratification of Kampala Convention,14 February 2020, available at https://www.unhcr.org/news/news-releases/unhcr-welcomes-ethiopias-ratification-kampala-convention last accessed 8 August 2026

[61] Art 3, 4 and 5 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

[62] Art 3 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

grounds, as well as forced removals caused by armed conflict, collective punishment, human rights violations, natural or man-made disasters, or any comparable acts not justified under international law. States must criminalize arbitrary displacement that constitutes genocide, war crimes, or crimes against humanity, while also safeguarding communities with special cultural and spiritual ties to their land.[63]

And consequently, Article 5 reinforces that states carry the primary duty to provide protection and humanitarian assistance to IDPs without discrimination. They must cooperate with international and regional organizations, enable rapid and impartial delivery of humanitarian aid, and guarantee the safety of humanitarian personnel. States are further required to assess the needs of both IDPs and host communities, mobilize resources, and seek international assistance where national capacity is insufficient. All actions must respect humanitarian principles of humanity, neutrality, impartiality, and independence, while ensuring IDPs' right to peacefully seek assistance without fear of punishment.[64] Collectively, these provisions impose a binding legal framework that obliges states to prevent displacement, protect affected populations, and provide durable solutions consistent with international human rights and humanitarian standards. This instrument is unique globally as it legally binds states in the African context to act specifically on IDP issues.[65]
The Kampala Convention recognizes the interconnection between human rights, humanitarian protection, and development, highlighting that the displacement crisis cannot be addressed solely through emergency relief.[66] Ethiopia is therefore required not only to provide immediate humanitarian

[63] Ibid
[64] Ibid
[65] Ibid
[66] Allehone Mulugeta Abebe, The Kampala Convention and Environmentally Induced Displacement in Africa (Mar. 29, 2011), IOM.int (last visited Apr 7, 2026)

assistance but also to integrate long-term solutions into its planning and development strategies, ensuring sustainable reintegration of IDPs.[67] Regional anti-trafficking initiatives, such as AU Model Laws on Trafficking in Persons, also shape Ethiopia's obligations.[68] These instruments encourage harmonization of criminalization measures, victim support systems, and regional cooperation to combat trafficking networks. By aligning domestic legislation with regional standards, Ethiopia strengthens cross-border law enforcement and enhances the protection of vulnerable populations.

The African Union's human rights mechanisms further complement legal instruments through monitoring implementation and in providing recommendations.[69] Ethiopia is subject to review by the African Commission and is expected to submit periodic reports on its progress in protecting vulnerable populations.[70] This regional oversight reinforces accountability and serves as a mechanism for capacity building. Regional instruments also emphasize prevention, education, and public awareness. Ethiopia is obliged to implement campaigns to raise awareness about trafficking and displacement risks, ensuring that communities, local authorities, and law enforcement are informed and empowered to prevent violations.[71] Such preventive measures are critical in mitigating the root

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67 National Strategy to Implement Solutions Pathways to Internal Displacement, In Ethiopia Solutions to Internal Displacement in Ethiopia 2024, https://ethiopia.iom.int/sites/g/files/tmzbdl996/files/documents/2025-02/solutions-to-internal-displacement-in-ethiopia_2024. pdf

68 Workshop on AU Policies on the Prevention of Trafficking in Persons (TIP) and Smuggling of Migrants (SOM) in Africa, August 15, 2023 to August 17, 2023

69 Manuel Manrique Gil and Anete Bandone, Directorate-General for External Policies of the Union Policy Department Report (2026), europa.eu (last visited Apr 7, 2026)

70 African Commission on Human and Peoples Right, State Reporting Procedures and Guidelines, Last update: Sep 05, 2025

71 Joanna Busza, Zelalem Shewamene, Catherine Zimmerman et al., Accidental Traffickers: Qualitative Findings on Labour Recruitment in Ethiopia, 19 Global Health 102 (2023), https://doi.org/10.1186/s12992-023-01005-9 (last visited Apr. 7, 2026).

causes of trafficking and internal displacement.[72] Regional cooperation frameworks facilitate intelligence sharing, joint investigations, and extradition of offenders.[73] For Ethiopia, participation in these networks is essential given the transnational dimension of trafficking and cross-border displacement in the Horn of Africa, which often involves organized crime and armed conflict. The regional framework, therefore, complements Ethiopia's international obligations by contextualizing protections within Africa's socio-political realities. It ensures that national laws are not developed in isolation but rather in dialogue with regional best practices, standards, and enforcement mechanisms.[74] Generally regional instruments reinforce the principle of solidarity and collective responsibility.[75] By ratifying AU conventions, Ethiopia recognizes that protecting human rights and addressing displacement is not solely a domestic concern but a shared regional duty.[76] This fosters collaboration, resource sharing, and policy harmonization essential to tackling complex challenges such as trafficking and internal displacement.

3.3 National Laws and Institutional Framework

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The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) serves as the supreme legal authority and the primary mandate for human rights protection in the country. Rather than acting as a mere statement of intent, the Constitution creates a binding framework by integrating international human rights norms and obligating all federal and state

[72] Ibid
[73] Ibid
[74] Fekadeselassie F. Kidanemariam, Enforcement of Human Rights under Regional Mechanisms: A Comparative Analysis (2006) (LLM Thesis, University of Georgia School of Law), uga.edu (last visited Apr. 7, 2026).
[75] The Cartagena process: 30 years of innovation and solidarity, FMR 49 – Disasters and displacement in a changing climate
[76] UNHCR Welcomes Ethiopia's Ratification of the Kampala Convention (Feb. 14, 2020), unhcr.org (last visited Apr 7, 2026)

legislative, executive, and judicial organs to respect and enforce fundamental freedoms. The constitutional response to trafficking and displacement is anchored in several specific provisions that establish the state's duty of protection. Article 18 provides the most direct mandate, with Article 18(2) explicitly stating that trafficking in persons for any purpose is prohibited. This provision is critical because it elevates anti-trafficking efforts to a constitutional priority, ensuring that subsequent legislation, such as Proclamation No. 1178/2020, is viewed as a fulfillment of a supreme legal duty.

Furthermore, the foundational rights to life, liberty, and the security of the person are protected under Articles 14 to 17, providing the legal basis for state intervention when individuals are held in debt bondage or subjected to physical violence. Article 25 guarantees that all persons are equal before the law and entitled to equal protection without discrimination, serving as a vital safeguard for internally displaced persons (IDPs) by mandating that displacement should not result in the loss of legal rights or access to state services compared to other citizens. Additionally, Article 32 is specifically relevant for IDPs, as it guarantees the right to liberty of movement and the freedom to choose one's residence within the national territory. Specialized protections for vulnerable groups are further enshrined in Articles 35 and 36, which obligate the state to protect women and children from exploitation and violence. The normative strength of this framework is finalized by Article 9(4), which dictates that all international agreements ratified by Ethiopia are an integral part of the law of the land. This "bridge" provision ensures that the high standards of the Kampala Convention and the Palermo Protocol carry constitutional weight, providing a robust, albeit complex, legal landscape for enforcement and judicial review.[77]

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[77] Adem Kassie Abebe, Human Rights under the Ethiopian Constitution: A Descriptive Overview, *Mizan Law Review*, Vol 5 No 1 (2011), p. 34

Specific protections for women and children are enshrined in Articles 35 and 36. These guarantee protection from violence, exploitation, and trafficking, ensuring that policies are aligned with international and regional obligations. Freedom of movement under Article 32 is particularly relevant for IDPs, emphasizing their right to reside safely and access assistance.[78] Domestic legislation complements constitutional guarantees. Proclamation No. 1178/2020, the Prevention and Suppression of Trafficking in Persons and Smuggling of Persons, establishes a comprehensive anti-trafficking framework.[79] It defines trafficking and smuggling, criminalizes offenses, prescribes penalties, and provides victim protection measures, including shelter, legal aid, and medical assistance.[80]

The Proclamation also mandates the establishment of a national coordinating body to oversee anti-trafficking efforts and facilitate international cooperation. This ensures a structured, multi-sectorial approach and aligns national practice with global standards.[81] Despite these advances, challenges remain in enforcement, particularly in remote regions where trafficking networks operate clandestinely. In terms of IDP protection, Ethiopia's ratification of the Kampala Convention obliges the government to provide protection, assistance, and durable solutions.[82] While international treaties are integrated into the law of the land via the Federal Constitution, the absence of a dedicated national IDP law limits the practical implementation of these obligations. Without a specific domestic

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[78] Art. 32 of the Constitution of the Federal Democratic Republic of Ethiopia

[79] Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation, 2020, Proclamation No. 1178, Federal Negarit Gazette, 26th Year, No. 27.

[80] Ibid

[81] Ibid

[82] African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), Oct 2009, Art.3, 9 & 11.

instrument, protection efforts remain dispersed across fragmented policies, and the lack of a designated displacement-focused institution hinders the systematic enforcement of these high-level legal commitments.[83]

3.4. Judicial Antecedents on State Obligations in Addressing Internal Displacement and Human Trafficking under International Human Rights Law¶

Forced displacement and human trafficking are closely interconnected under international human rights law, as displacement situations often create heightened vulnerability to exploitation, coercion, and abuse. Individuals and communities who are forcibly evicted or deprived of livelihood sources may experience increased exposure to traffickers due to loss of economic stability, breakdown of social protection systems, and restricted access to legal remedies. Accordingly, jurisprudence on development-induced displacement is relevant to trafficking analysis because it clarifies state obligations to prevent conditions of vulnerability that may indirectly facilitate exploitation and trafficking.

Regional human rights jurisprudence has significantly clarified the scope of State obligations in contexts of development-induced displacement, particularly under the African Charter on Human and Peoples' Rights. The African Commission on Human and Peoples' Rights has consistently interpreted State responsibility to extend beyond mere non-interference, requiring positive duties to consult affected populations, prevent arbitrary displacement, and ensure restitution and adequate compensation where displacement occurs. These obligations are particularly pronounced in cases involving indigenous and marginalized communities whose livelihoods are

[83] Bereket Tsegay and Kiya Gezahegne, Internal Displacement in Ethiopia: Towards a New Policy and Legal Framework for Durable Solutions, Heinrich Böll Foundation, July 2023, p.20.

intrinsically tied to land and cultural heritage.

A leading authority in this regard is Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of Endorois Welfare Council) Vs. Kenya, where the Commission held that the forced eviction of the Endorois community from ancestral lands for the creation of a game reserve, without meaningful consultation, compensation, or access to sacred sites, constituted violations of property, cultural, religious, and development rights.[84] This decision is frequently cited as establishing that development objectives cannot justify displacement unless strict safeguards of participation, proportionality, and remedial justice are met.[85]

Importantly, the Commission's reasoning in Endorois reflects a broader interpretive approach within international human rights law that links displacement with structural violations of dignity and identity, particularly where communities depend on land for cultural survival. This jurisprudence strengthens the normative expectation that States must adopt preventive frameworks rather than reactive remedies, including environmental and social impact assessments, prior informed consent, and enforceable compensation mechanisms before displacement occurs.[86]

This approach has been reinforced in subsequent African Commission jurisprudence, including Communication 419/12 – The Indigenous Peoples of the Lower Omo v Federal Democratic Republic of Ethiopia (2022),

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[84] Centre for Minority Rights Dev. (Kenya) & Minority Rights Grp. Int'l (on behalf of Endorois Welfare Council) Vs. Kenya, Communication No. 276/2003, and Afr. Comm'n Hum. & Peoples' Rts. 162–209 (Feb. 4, 2010).

[85] *Id*. 162–209

[86] *Id*, pp. 211–298

where similar concerns arose regarding large-scale development projects and their impact on indigenous populations. The Commission reiterated that States must ensure substantive consultation and protect affected communities from forced or arbitrary relocation arising from development policies.[87]

Taken together, these decisions demonstrate an emerging regional standard in which development-induced displacement is not assessed solely through the lens of economic policy but through strict human rights scrutiny. This evolving jurisprudence is also relevant for understanding State obligations in trafficking-related displacement contexts, where vulnerability is often intensified by weak protection systems and lack of access to remedy. The Commission's reasoning suggests that failure to regulate or mitigate displacement risks may indirectly contribute to conditions that facilitate exploitation, including trafficking.¶

4. Institutional Architecture and Governance

The twin crises of human trafficking and internal displacement in Ethiopia expose the fragility of state institutions tasked with protecting vulnerable populations.[88] While trafficking has long been recognized as a transnational crime, internal displacement fueled by conflict, political instability, and natural disasters has multiplied vulnerability to exploitation.[89] The intersection of these demands more than ad-hoc responses; it requires an integrated institutional framework that clearly allocates responsibilities, ensures accountability, and mobilizes resources across federal and regional

[87] Indigenous Peoples of the Lower Omo Vs Fed Democratic Republic of Ethiopia, Communication No. 419/12, Afr. Comm'n Hum & Peoples' Rts. (2022)

[88] Carter, B. and Rohwerder, B. (2016), Rapid fragility and migration assessment for Ethiopia (Rapid Literature Review) Birmingham, UK: GSDRC, University of Birmingham.

[89] UNODC, An Introduction to Human Trafficking: Background Paper (2008), unodc.org (last visited Apr. 7, 2026).

levels.[90] Current structures offer a legal foundation, but systemic weaknesses limit effective governance.[91]

At the federal level, the Ministry of Justice holds primary responsibility for policy leadership and legal enforcement against trafficking. Through Proclamation No. 1178/2020, the Ministry coordinates anti-trafficking efforts, including the national hotline and legislative drafting. The Federal Police Commission complements this role by operating specialized anti-trafficking units that investigate organized criminal networks. Regional states, constitutionally empowered with policing and administrative autonomy, are the first responders to IDPs and trafficking incidents within their territories.[92] Regional police forces in Ethiopia often encounter trafficking cases along migration routes and among displaced and vulnerable populations, yet gaps remain in specialized anti-trafficking training, victim identification, victim-centered investigation techniques, and access to protection services, particularly outside Addis Ababa.[93]While federal laws are binding, inconsistent implementation across regions due to varying resources, political will, and security conditions undermines uniform protection.[94] This federal regional mismatch highlights the need for

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90 Getye Abneh Tadesse and Tesfaye Tafesse, *Conflict-driven Human Trafficking, Internally Displaced Persons, and Legal Responses in Ethiopia: The Northern Conflict in Focus*, 36 Small Wars and Insurgencies 1135 (2025), https://doi.org/10.1080/09592318.2025.2510308 (last visited Apr. 7, 2026)

91 Ibid

92 Marianne Hollinger and Oleksandr Sienkevych**,** The Role of Local and Regional Governments in Protecting Internally Displaced Persons (IDPs**)** (Oct 29, 2019) (Congress of Local and Regional Authorities, 37th Sess, Report CG37 (2019)09final), coe.int (last visited Apr.7, 2026)

93 USDOS – US Department of State, 2025 Trafficking in Persons Report: Ethiopia, USDOS – US Department of State (Author): "2025 Trafficking in Persons Report: Ethiopia", Document #2130578 - ecoi.net.

94 Abdinasir Naji Mohamed Abdi and Mohamed Bashir Hashi, *Impact of Police Effectiveness on Public Trust and Public Cooperation with the Somalia Police Service: Exploring the Mediating Role of Citizen Satisfaction*, 10 Cogent Social Sciences 2327137 (2024), https://doi.org/10.1080/23311886.2024.2327137 (last visited Apr. 7, 2026).

coordinated structures that respect decentralization while ensuring minimum standards of protection nationwide.[95]

The establishment of specialized police units, prosecutors, and court benches has been internationally recognized as a best practice to combat trafficking.[96] In Ethiopia, the Federal Police has formed organized crime divisions with anti-trafficking functions, but these remain under-resourced and concentrated in limited jurisdictions.[97] Specialized courts or benches for trafficking cases are still embryonic, and procedures often fail to account for the trauma experienced by victims.[98] Expanding such units and integrating them into both federal and regional systems would not only improve prosecutions but also enhance victim-centered justice.[99]

Independent oversight mechanisms are indispensable in contexts where state security forces and administrative bodies exercise wide discretion.[100] The Ethiopian Human Rights Commission, as a constitutionally mandated institution, monitors human rights violations, including abuses affecting IDPs and trafficking victims. Its mandate to investigate, report, and recommend remedies positions it as a critical accountability actor. Yet,

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95 Potchefstroom Electronic Law Journal (PELJ), *On-line version* ISSN 1727-3781, PER Vol.15 No.2 Potchefstroom Aug. 20**1**

96 International Labour Organization (ILO), Prosecutors and Police Officers Show Their Skills to Coordinate Efforts to Combat Forced Labour and Human Trafficking (Oct. 12, 2021), ilo.org (last visited Apr. 7, 2026).

97 U.S. Department of State, 2024 Trafficking in Persons Report: Ethiopia (June 24, 2024), https://www.state.gov/reports/2024-trafficking-in-persons-report/ethiopia/ (last visited Apr. 7, 2026).

98 Mahilet Abraham, Legal Protection and Remedy of Victims of Human Trafficking under Ethiopian Laws (2024) (LLM Thesis, Bahir Dar University) (on file with the Bahir Dar University School of Law)

99 Tadesse Simie Metekia, Implementing Transitional Justice in Ethiopia with International Standards, Policy Brief Issue No. 1, Konrad Adenauer Stiftung 30 may 2024

100 Franklin De Vrieze, Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework (Feb. 2019) (Westminster Foundation for Democracy), wfd.org (last visited Apr. 7, 2026).

resource constraints, political pressures, and limited access to conflict zones weaken its effectiveness.[101] Strengthening the Commission's authority and resourcing is crucial for ensuring transparency and for bridging the trust deficit between vulnerable communities and state institutions.[102] Despite the presence of multiple actors, coordination remains the central weakness of Ethiopia's institutional architecture.[103] Fragmented mandates among the Ministry of Justice, Federal Police, the EHRC, regional states, and humanitarian agencies often result in duplicated efforts and delayed responses. The absence of a unified national database linking trafficking incidents with displacement patterns further undermines evidence-based policy making.[104] Without reliable data, allocation of resources and preventive measures remain reactive rather than strategic, perpetuating a cycle of institutional inefficiency and victim invisibility.

Institutional frameworks in Ethiopia also face chronic capacity and accountability deficits. Police and prosecutors often lack specialized training in victim identification and trauma-informed practices.[105] Regional courts suffer from case backlogs and lack expertise in applying complex trafficking laws. Meanwhile, accountability for public officials who neglect

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[101] Lamessa Gudeta Guder, Challenges to the Ethiopian Human Right Commission in Promoting and Protecting Human Rights, *International and Public Affairs*, Vol 6 No.1 (2022).

[102] OECD (2017), Trust and Public Policy: How Better Governance Can Help Rebuild Public Trust, OECD Public Governance Reviews, OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264268920-en

[103] Daniel Amente, Kenea, Girma Teshome, Firehiwot Yemane, Institutional Development in Ethiopia: Challenges and Policy Options, *Social Sciences and Education Research Review*, Vol. 7 No.2, pp. 69-88

[104] Getye Abneh and Tesfaye Tafesse, Conflict-driven Human Trafficking, Internally Displaced Persons, and Legal Responses in Ethiopia: The Northern Conflict in Focus, 36 Small Wars & Insurgencies 1 (2025), doi.org (last visited Apr. 7, 2026).

[105] UNODC, Training Program on the Treatment of Child Victims and Child Witnesses of Crime: Law Enforcement (2015), https://www.unodc.org/documents/justice-and-prison reform/Training_Programme_on_the_Treatment_of_Child_Victims_and_Child_Witnesses_of_Crime_-_Law_Enforcement.pdf (last visited Apr. 7, 2026)

protection duties or collude with traffickers is rarely enforced. These deficits are compounded by inadequate budget allocations at both federal and regional levels, which leave anti-trafficking and IDP protection programs heavily reliant on donor funding and NGO interventions.[106]

5. Internal Displacement and Vulnerability to Human Trafficking: The Ethiopian Context

Internal displacement and its implication on vulnerability to human trafficking represent a critical humanitarian and legal concern in Ethiopia. Patterns of forced displacement caused by conflict, ethnic violence, drought, and large-scale development projects have left millions of people uprooted from their homes and social protection systems.[107] Displacement weakens community structures and exposes vulnerable groups, particularly women, children, and unaccompanied youth to the risks of sexual exploitation, forced labor, and recruitment by armed groups.[108] In Ethiopia, reports have shown that internally displaced persons (IDPs) in temporary camps or informal settlements face heightened risks of falling victim to the crime of trafficking due to lack of livelihood opportunities, limited access to justice, and minimal law enforcement presence.[109] The following discussion situates how internal displacement amplifies vulnerability human trafficking within a broader global framework, before turning to its particular manifestations in Ethiopia.

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[106] Office of the Special Adviser on Solutions to Internal Displacement, Guidance on Solutions to Internal Displacement (Feb 2025), un.org (last visited Apr 7, 2026)

[107] International Organization for Migration (IOM), Ethiopia: East, Horn and Southern Africa (2025), iom.int (last visited Oct. 6, 2025).

[108] UNHCR, *Supra* Note 5, p.218

[109] Ethiopian Human Rights Commission (EHRC), Annual Report on the Human Rights Situation of Internally Displaced Persons in Ethiopia (June 2021-June 2022) 19-21, ehrc.org (last visited Oct. 6, 2025)

5.1. The General Interrelationship between Internal Displacement and Human Trafficking

The intersection of human trafficking and internally displaced persons (IDPs) is a critical humanitarian issue. As mentioned previously, they are closely interwoven, complex and dynamic issues. To properly comprehend their interrelationship, let's see what the literature says. According to the literature made by UNHCR, forced displacement can increase the risk of trafficking by weakening or destroying family support structures, community bonds and self-protection mechanisms that might otherwise serve as a buffer to trafficking.[110] For the basic reason that, IDPs lacks documentation and have limited access to education, livelihoods and self-reliance opportunities, they may be particularly vulnerable to traffickers who appear to offer life-saving access to employment opportunities.[111] In addition, IDPs who fear for their lives and wish to seek protection abroad, for instance, as refugees can also fall prey to traffickers who claim to offer a route to safety.

To explain the assertions more clearly, traffickers specifically target impoverished communities, including the internally displaced, in order to exploit their vulnerability. For instance, poor and displaced families may entrust the care of their children to traffickers who promise to provide them with education or skills training, but ultimately exploit them for the purposes of prostitution, forced labour or irregular adoption. According to the above literature, internally displaced children, child heads-of-households, single heads of households, young girls, and former victims or

[110] UNHCR, Handbook for the Protection of Internally Displaced Persons: Action Sheet 7-Human Trafficking (2007) 218, https://www.unhcr.org/sites/default/files/legacy-pdf/4794b4322.pdf (last visited Sept. 4, 2025).
[111] Ibid.

survivors of trafficking are particularly vulnerable to the risk of trafficking.[112] This is also further strengthened by the global report made by the United Nations Office of Drug and Crime (UNODC).[113] It dictates that persons who are fleeing armed conflicts and humanitarian emergencies are highly vulnerable to trafficking in persons in their search for safety and protection.[114] It's indicated that people at risk of individual persecution based, for example, on their ethnicity, religion, or political opinion, are also vulnerable to human trafficking.[115]

The report generally asserts that forced displacement exacerbates factors that increase individual and group vulnerability to trafficking such as limited economic opportunities, discrimination, gender-based violence, and weakened community and family support networks.[116] These risks are further compounded by an inadequate legal framework, weak law enforcement capacity, weak border control, lack of respect for human rights, and domestic violence and abuse, in particular against women and children.[117]

5.2. Internal Displacement and Vulnerability to Human Trafficking in Ethiopia

Evidences in Ethiopia demonstrate a strong Intersection between vulnerability conditions produced by internal displacement and exposure to human trafficking, although direct large-scale datasets isolating IDPs

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[112] *Id*., p.219

[113]. United Nations Office on Drugs and Crime (UNODC), *Global report on trafficking in persons*, United Nations, 2016, available at https://www.unodc.org/unodc/en/data-and-analysis/glotip_2016.html last accessed at 6 October 2025

[114] *Id*., p.61

[115] *Id*., p.63

[116] *Id*., p.64

[117] UNHCR, Supra Note 67, p.219

remain limited. A widely cited quantitative study conducted among 1,342 Ethiopian returnees found that 51% experienced trafficking, with statistically significant predictors including poverty, lack of social protection, and prior engagement with smuggling networks.[118] These findings are based on measurable variables and closely mirror the socio-economic realities of internally displaced persons (IDPs), thereby providing strong indirect empirical support for the nexus between displacement and vulnerability to human trafficking.

And socio-ecological research examining structural drivers of trafficking in Ethiopia, Evidence shows that economic marginalization, institutional distrust, weak governance, and limited access to protection systems significantly increase susceptibility to trafficking.[119] these conditions are consistently observed in IDP settings, where displacement disrupts livelihoods, weakens informal protection networks, and reduces access to justice. The empirical overlap between these variables and displacement conditions reinforces the conclusion that internal displacement materially contributes to trafficking risk.

Institutional data provide field-based empirical evidence linking displacement contexts to trafficking vulnerability. The International Organization for Migration (IOM), through its Displacement Tracking Matrix (DTM), reports that displaced populations in Ethiopia frequently engage in irregular and unsafe migration pathways due to lack of livelihood opportunities and insecurity, both of which are empirically established risk

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[118] Gezie LD, Yalew AW, Gete YK. Human trafficking among Ethiopian returnees: its magnitude and risk factors. BMC Public Health 2019 Jan 22; 19(1):104. doi: 10.1186/s12889-019-6395-z. PMID: 30669989; PMCID: PMC6343328.

[119] Padmanabhan Murugan and Biniam Abebaw, Major Factors Contributing to Human Trafficking, Contexts of Vulnerability and Patterns of Victimization: the case of stranded victims in Metema, *Ethiopian Journals Online*, Vol 10 No. 2, pp.75-105

factors for trafficking.[120] These findings are derived from systematic displacement tracking and household-level data collection, strengthening their empirical reliability.

Similarly, the United Nations Office on Drugs and Crime (UNODC) identifies conflict, instability, and displacement as key structural drivers of trafficking in its global empirical assessments.[121] The reports consistently show that populations affected by displacement are disproportionately vulnerable due to weakened protection environments and increased economic desperation. Given Ethiopia's high levels of internal displacement caused by conflict and environmental factors, these empirically grounded global findings are directly applicable.

Generally, Ethiopia has been confronted with growing causes of human trafficking, especially related to labor exploitation and sexual exploitation. The country now serves as a source, transit and destination country for trafficked persons.[122] For instance, Ethiopia is one of the main countries of origin for irregular migrants heading to the Middle East, southern Africa, North Africa, and, to a lesser extent, Europe.[123] Although not systematically documented, the extent and magnitude of trafficking from Ethiopia has been alarmingly emerging as a national challenge.[124] The Ministry of

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120 Int'l Org. for Migration (IOM), Displacement Tracking Matrix: Ethiopia National Displacement Report, https://dtm.iom.int/ethiopia

121 U.N. Office on Drugs & Crime (UNODC), Global Report on Trafficking in Persons (2022), https://www.unodc.org/unodc/en/data-and-analysis/glotip.html

122 Social Work Institute, The Fight against Trafficking in Ethiopia: Progress and Obstacles (June 4, 2024)

123 Regional Mixed Migration Secretariat, Ethiopia Country Statement: Addressing Migrant Smuggling and Human Trafficking in East Africa (2017) cited in *Goitom Sisay*, Scoping Review of Empirical Studies on Human Trafficking in Ethiopia, 14 Cogent Social Sciences 2335198 (2024), doi.org (last visited Oct. 7, 2025).

124 IOM, They Snatched from Me My Own Cry: The Interplay of Social Norms and Stigma in Relation to Human Trafficking in Ethiopia (2021) 10, iom.int (last visited Oct. 7, 2025); see also Padmanabhan Murugan and Biniam Abebaw *Supra* note 119

Foreign Affairs (MoFA) of the Federal Democratic Republic of Ethiopia (FDRE), for example, roughly estimates that about 75,000- 100,000 people migrate each year into Sudan, Libya and other nearby Arab and European countries, and most of these people cross the border illicitly either by traffickers or smugglers.[125] According to the US Department of State report, two thirds of Ethiopia's transnational migrants came from illegal migration.[126] A study conducted by IOM further revealed that about 87.1% of Ethiopian migrant workers living in Middle Eastern nations are victims of trafficking.[127]

In short, human trafficking is a pervasive issue in Ethiopia. This complexity stems from various interrelated factors such as excessive social stress on economic success, the submission of non-economic institutions to the drives of economic institutions, the bounded economic rationality, the expansion of migration agencies and the effect of migration networks.[128] However, for the purpose of this paper, the discussion moves beyond broad determinants to focus on the bigger picture, the intersection between internal displacement and human trafficking in Ethiopia.

In this context, it is crucial to recognize that displacement not only creates physical and economic vulnerability but also amplifies the existing structural drivers of trafficking. According to the International Organization for Migration (IOM) report, vulnerability to human trafficking is exacerbated by various interrelated factors, such as poverty, increasing global economic disparity, political instability, protracted conflict, climate

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[125] Ibid.

[126] U.S. Department of State, Trafficking in Persons Report, 2020, available at 2020 trafficking in Persons Report - United States Department of State last accessed at 7 October 2025.

[127] Goitom Sisay, Scoping Review of Empirical Studies on Human Trafficking in Ethiopia, *Cogent Social Sciences*, Vol. 10 No. 1 (2024) pp.1-10

[128] *Supra* note 80, p.83.

change, unemployment, gender inequality and lack of access to educational opportunities and resources.[129] Displaced populations, who often experience many of these conditions simultaneously, particularly acute financial distress are therefore among the most targeted and exploited groups by traffickers.[130] It's also indicated that, since the late 1990s, to escape the thorny and hard knock life annually thousands of Ethiopians becomes victims of human trafficking in the Arabian Gulf nations.[131]

Report of UNODC also indicated that, while assessing the impact of conflict induced displacement, conflict related displacements exacerbate civilian's risk of being trafficked as people's support networks such as family ties, community bonds, self-protection mechanisms collapse. According to this report, displaced people often end up being socially and culturally isolated, lacking access to resources and livelihood opportunities which directly place them at severe risk of being trafficked by criminals seeking to profit from their vulnerabilities.[132] As noted above, Ethiopia consistently ranks among the top three countries worldwide alongside the Democratic Republic of Congo (DRC) and Syria, with the largest number of conflict-related internally displaced persons (IDPs).[133]

As of June 2024, an estimated 4.5 million people were internally displaced across Ethiopia, of whom approximately 73% (around 3.29 million individuals) were uprooted by conflict and violence.[134] While these figures

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[129] IOM, Human Trafficking and Smuggling of Migrants in the Context of Mixed Migration Flows: State of Play in the IGAD Region (2015) 3, iom.int (last visited Oct. 7, 2025).

[130] *Supra* Note 83.

[131] Ibid.

[132] UNODC, Global Report on Trafficking in Persons (2024) 74, unodc.org (last visited Oct 7, 2025)

[133] *Supra* note 41.

[134] OCHA, Ethiopia: Internal Displacement Overview (as of June 2024), July 2024, available at, Ethiopia: Internal Displacement Overview (as of June 2024) | OCHA, last accessed at 29 June 2024.

alone do not automatically establish a causal relationship with human trafficking, empirical evidence from international and national monitoring bodies indicates that conflict-induced displacement creates conditions that are consistently associated with increased trafficking vulnerability, including recruitment, coercion, and exploitation in transit and displacement settings.[135] In Ethiopia, IOM Displacement Tracking Matrix (DTM) assessments have repeatedly documented that IDP populations face heightened exposure to protection risks, including abduction, exploitative labor arrangements, and unsafe secondary movement due to loss of livelihood, documentation, and family protection structures.[136]

In Ethiopia, the nexus between internal displacement and heightened protection risks, such as human trafficking, abduction, and exploitation, is critically reinforced by the breakdown of formal and community-based protection systems in conflict-affected regions like Tigray, Amhara, Oromia, and Afar. Displaced populations, particularly women, girls, and unaccompanied children living in substandard or vulnerable conditions, face extreme exposure to trafficking networks, forced labor, and survival-based abuses due to the collapse of social safety nets, loss of livelihoods, and widespread insecurity.[137]

The 2022 Trafficking in Persons Report on Ethiopia explicitly reinforces the nexus between internal displacement and human trafficking by establishing that the millions of individuals uprooted by conflict and

[135] Infra note 138.
[136] International Organization for Migration (IOM), Displacement Tracking Matrix (DTM) Ethiopia: Internal Displacement and Protection Monitoring Reports (2023–2024) (2024), iom.int (last visited Apr. 7, 2026).
[137] The Global Protection Cluster, Ethiopia Protection Analysis Update; The Critical Need for Protection amongst Armed Conflict and Climate Shocks, 2025, pp.10-11. ethiopia_protection_analysis_update_august_2025_final.pdf

drought face extreme vulnerability to trafficking due to severe economic destitution and a lack of access to justice.[138] Specifically, the report highlights that individuals residing in resettlement camps or otherwise affected by internal crises are increasingly targeted for exploitation, with local NGOs assessing that internal trafficking victims, particularly children trapped in domestic servitude and in sex trafficking likely exceed the scale of external trafficking. Furthermore, the breakdown of security and governance in conflict-affected regions has exacerbated these risks, with documented accounts of vulnerable displaced populations being subjected to forced labor and survival-based transactional abuses by armed actors and officials when humanitarian and social protections collapse.

Reinforcing these institutional observations with localized empirical data, recent research from internal displacement settings in Ethiopia powerfully reinforces the nexus between displacement and severe protection risks, demonstrating that the conditions of uprooted populations directly amplify vulnerability to exploitation and human trafficking.[139] A comprehensive mixed-methods study conducted among internally displaced women in DebreBerhan revealed that 31 percent experienced lifetime gender-based violence, with over a quarter (25.2 percent) suffering abuse in the preceding year, nearly 80 percent of which occurred directly inside IDP camps.[140] Documenting severe protection failures that mirror trafficking vulnerabilities, the study identified pervasive rates of physical violence (25.8 percent), forced marriage (19.1 percent), and sexual violence (10.0 percent). Furthermore, structural drivers inherent to displacement, such as

[138] U.S. Department of State 2021, Trafficking in Persons Report: Ethiopia, <Ethiopia - United States Department of State>.

[139] Mitiku K et al, Investigating Gender-based violence against internally displaced women in DebreBerhan, Central Ethiopia: A mixed-methods study using the socio-ecological framework, 2025, <Investigating Gender-based violence against internally displaced women in DebreBerhan, Central Ethiopia: A mixed-methods study using the socio-ecological framework>.

[140] *Id*. p.9

severe camp overcrowding, acute economic destitution, institutional breakdown, and pervasive insecurity, act as critical vulnerability multipliers that strip displaced individuals of self-protection mechanisms and expose them directly to predatory abuse, coercion, and trafficking networks.[141]

Echoing these localized vulnerabilities at a broader systemic level, this risk environment is further corroborated by the UNODC's global trafficking reports, which identify internal displacement and conflict settings as key "vulnerability multipliers" that facilitate trafficking in persons through breakdown of governance, weakened community protection systems, and increased reliance on informal coping mechanisms.[142] In the Ethiopian context, the United States Department of State Trafficking in Persons Report also notes that internally displaced persons, particularly women and children in conflict-affected and displacement settings, are among groups most vulnerable to trafficking for forced labor and sexual exploitation, especially when humanitarian assistance is insufficient or inconsistent.[143]

Grounding these dynamics within a comprehensive legal and human security framework, recent empirical research by GetyeAbnehTadesse and TesfayeTafesse on the northern Ethiopian conflict underscores how armed hostilities systematically drive internal displacement into profound human trafficking networks.[144] Utilizing a case study design and direct field interviews with 42 key participants, including internally displaced persons, government officials, NGO representatives, and illicit brokers, their findings reveal that displaced populations face extreme exposure to multi-

[141] Ibid.
[142] U.N. Office on Drugs & Crime, Global Report on Trafficking in Persons 2024 (2024).
[143] U.S. Department of State, Trafficking in Persons Report: Ethiopia 2024 (2024).
[144] Getye Abneh Tadesse and Tesfaye Tafesse, Conflict-driven human trafficking, internally displaced persons, and legal responses in Ethiopia: the northern conflict in focus, 2025, *Small Wars and Insurgencies*, Vol. 36 No. 6, pp. 1135-1163.

faceted abuses, such as systemic sexual and labor exploitations, targeted rape, and the coercive recruitment of child soldiers. By demonstrating that illicit brokers actively exploit the structural collapse of state protection mechanisms in conflict zones, this study bridges macro-level policy gaps and validates that the intersection between internal displacement and human trafficking represents an urgent, legally actionable crisis requiring robust state intervention and specialized protective safeguards.[145]

The findings are further reinforced by the Ethiopian Human Rights Commission (EHRC), which reports that IDPs and returnees have repeatedly experienced inadequate access to essential humanitarian services, including food, shelter, clean water, healthcare, and sanitation. Such deprivation increases exposure to survival-based exploitation strategies, including unsafe labor migration and reliance on informal intermediaries, which are widely recognized as key entry points into trafficking pathways.[146] Taken together, these empirical findings demonstrate that while not all IDPs become trafficking victims, the scale of displacement in Ethiopia significantly amplifies structural and situational vulnerabilities that are empirically associated with heightened trafficking risk.[147] The Ethiopian Human Rights Council (EHRCO) urged the government to ensure sustainable peace and the rule of law by addressing the root causes of conflict, violence, human rights violations, and instability across the country, emphasizing that resolving these issues would help reduce internal displacement and, consequently, the risk of human trafficking.

[145] Ibid

[146] Ethiopian Human Rights Commission (EHRC), Annual Ethiopia Human Rights Situation Report (June 2023–June 2024) (July 2024), https://ehrc.org/special-edition-annual-ethiopia-human-rights-situation-report-june-2023-june-2024 / (last visited Apr. 7, 2026).

[147] EHRC, *Supra* note 66

Conclusion

Empirical evidence demonstrates a strong relationship between internal displacement and heightened vulnerability to human trafficking. Displacement disrupts social protection systems, weakens community networks, and exposes affected populations to exploitative actors. In Ethiopia, where approximately 4.5 million people were internally displaced in 2024, including more than 3.29 million due to conflict, millions remain in conditions that increase their susceptibility to trafficking. Evidence from UNODC and IOM indicates that internally displaced persons face elevated risks of forced labour, sexual exploitation, and other forms of trafficking, particularly where poverty, insecurity, livelihood disruption, weak institutional capacity, and limited access to justice persist. These vulnerabilities are often intensified in displacement camps and migration corridors, where traffickers exploit weak oversight and individuals' urgent need for security and income.

The relationship between displacement and trafficking is sustained by multidimensional vulnerabilities. The breakdown of family structures, community support systems, and traditional protection mechanisms can leave women, children, persons with disabilities, and other marginalized groups particularly exposed. Loss of livelihoods, lack of documentation, limited access to education and employment, and restricted access to essential services further create opportunities for traffickers to use deceptive recruitment, false promises, and coercion. Internal displacement should therefore be understood not only as a humanitarian concern but also as a condition that can facilitate organized criminal exploitation.

Addressing this nexus requires integrated prevention, protection, and accountability measures. Ethiopia should strengthen implementation of existing anti-trafficking laws through effective investigation, prosecution, and victim-centred enforcement, while developing a comprehensive legal framework for the protection of internally displaced persons. Stronger coordination among government institutions, humanitarian organizations, and law enforcement agencies is also essential. Comprehensive services, including safe shelters, legal assistance, psychosocial support, and livelihood opportunities, should be expanded within displacement settings. Specialized training for frontline officials would further improve trafficking identification and victim protection.

Ultimately, reducing trafficking risks requires addressing both immediate vulnerabilities and structural drivers of displacement. Conflict prevention, peace building, climate resilience, sustainable development, and durable resettlement solutions are therefore essential to breaking the cycle between displacement and exploitation and protecting the rights and dignity of internally displaced persons in Ethiopia.