



**St. Mary's University College**

# **Faculty of Law**

THE LEGAL ASPECTS OF DEFORESTATION  
CASE STUDY ON FINFINNE FOREST ENTERPRISE

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Addis Abeba- Ethiopia

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CASE STUDY ON FINFINNE FOREST ENTERPRISE**

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## **Introduction**

Forests provide essential goods and services for the livelihood of people and biodiversity conservation and environmental protection for sustainable economic development as a whole forests are sources of variety of foods obtained from agriculture, wood fuels with which to cook food a wide range of traditional medicines and hygienic products. It also contributes to the improvement of productivity of land soil fertility and water shade. Forest helps in the diversification of income generation through employment generation and production of cash crops.

In Ethiopia Forestry has a significant role in the enhancement of industrial and commercial agricultural developments. The catchments of the existing and potential hydro electric power station and irrigation dams and drinking water are emanating from the remaining high forests of the country. In general forest is one of the natural resources the conservation development and utilization of which affects the biodiversity the human health and economic development in many ways.

Ethiopia's forest resource has been disappearing at an alarming rate. A century ago, forests covered about 40% of the total land area, this proportion has been reduced to 16% in 1950's and today it is less than 3%.

The main causes of deforestation are happened in human activity. Deforestation reduces soil productivity and vegetation becomes damaged. The consequence that must be, food production is undermined and food security is affected results in a huge drain of economic resources less of biodiversity and disruption of carbon cycle.

For the purpose of utilization conservation and development of forest resources in the country in federal and regional levels different laws have be promulgated.

Oromia National Regional State has its own proclamation to utilization conservation and development of forest resources. Recently eight forest Enterprises are established under the close supervision of Oromia Forest enterprises supervision agency. These forest enterprises and Oromia Forest enterprises supervision agency is established by regulations.

This research will examine from eight enterprises which is called Finfinne Forest Enterprise as a general and based on a sample areas as being selected. (Entoto, Sandafa, Menagesha and Sebeta area)

These selected areas are deforested encroached (disturbed) highly with the expansion of urbanization, Investment area and by illegal tree cutter.

### **Statement of problem**

The effect of deforestation of the enterprise the land is degradation through exposing the soil for various agents for erosion and it's also the reduction of water resources of Addis Ababa. What is the solution for deforestation of the forest around Addis Abeba.

1. Around 1351.43 hectares forest lands are taken to another investment and for the town nearest Addis Ababa. Which part is giving more advantage for the country? The forest around Holota, Menagesha, Sululta and Sebeta are destroyed and today the land is remained bare. Are we replacing this forest in short time? This forest land area is given as for the public interest. But in law, is it for public interest? When the forest land is given for the investment and towns the appropriate authority that is taken the area can pay compensation according to proclamation No. 280/2002 art 21. According to this proclamation before expropriation the appropriate authority must pay adequate compensation without discrimination and this is done with due process of law. Is this compensation is paid to the enterprise according to law?
2. The other problem is the local communities are cut trees illegally for selling. They see the enterprise as their enemy. What is the problem behind?
3. The system of guards to protect forest area is in conventional method by the enterprise guards. Is this system applicable?
4. Oromia forest proclamation No. 72/2003 art 15 says” who cut tree from the forest or take forest resources product prepare or utilize forest resources product in any form found transporting the forest resource product with any means of transportation or found having forest resource product in store” caused the above mentioned activity shall be penalized with 5 to 15 years of imprisonment. This proclamation is declared in the whole of Oromia. But the prosecutors are use the federal proclamation be punishable with imprisonment not exceed two years or Birr 5,000 or both. Why the public prosecutors and judges use the Federal proclamation than the Oromia?



Generally the main issue of the study is to find the legal solution of problems mentioned above.

### **Objective of the study**

The forest resources of the enterprise are under a great influence of the local and urban communities. The object of the study is to examine the provisions of forest and Investment proclamations and assesses the problems on the provisions, to assess the impact of local communities, to identify the problems and potentials found in the areas in the forest development and utilization and to identify the problems and needs of the local communities. It is to elaborate the problems arising in the law to analyze the collected data based on the problems and observed before and during the study and propose the possible recommendation based on the output of the study which may be an input for the Regional Forest Enterprises in general and for Finfinne Forest Enterprise in particular.

### **Significance of the study**

Forest is one of the natural resources the conservation development and utilization of which affects the biodiversity the human health and economic development. Forests are unique in the diversity and importance of needs it fill. The forests have economic social and spiritual benefits. This means it use for fuel wood as energy for food production of timber and medicine production. When it utilized properly it brings about the sustainable economic growth, development of the country and the world as well. For the result of economic and sustainable growth human beings are living in clean environmental places. The problem of deforestation must be studied and the result must be known.

In Ethiopia from 1957 EC up to now there are several proclamations to utilize and development of forest resources. It is also regional proclamations and forest utilization enterprise but deforestation is still continuing especially around Addis Ababa. Because the laws and practice cannot meet. In this research the gaps in the law and its practice studied and its possible solution should recommend. The starting point of this study is the problem being arising on deforestation of Finfinne Forest Enterprise especially around Entoto, Sandafa, Menagasha and Sebeta area which I tried to mention in the statement of problem. The wide research is focused of this area.

Oromia has the widest forest area have opportunity to utilize and upgrade forests. But the problem which may affect a forestation should be eliminated on the bases of the study.

The forest land is given for the inverters for investment purpose especially for floriculture and expansion of urbanization around Addis Ababa. According to the investment proclamation for expropriation the compensation must be paid. Is the enterprise got compensation? How? When? From where? In this case does the law and practice meet? The forest is deforested by illegal forest cutters the purpose of punishment of forest law violators is to deter the violator and other potential violators from being evolved in similar acts. Does the court give judgment on violators according to the law?

This study is examine investment law forest laws of Federal and Oromia Region and its practice on the above issues and finally based on the final output of the study to provide possible recommendation on the provision of law and practice as well.

### **Hypothesis**

The problems arising in the law and practices, the expansion of investment and urbanization in forest area, or the mechanization of guardian, or the interest of local people on forest area, or the judgment given by the illegal tree cutters is weak or the scarcity of land around Entoto and Sebeta.

### **Delimitation of the study**

This research will see the over view of advantage of forest in whole the Ethiopia forest policy the cause and effect of deforestation in Ethiopia as whole evaluate the forest laws of the Federal and Regional. The study is limited on the legal aspect of deforestation of Finfinne Forest Enterprise at the specific local area of Entoto, Sendafa, Menagesha and Sebeta blocks. This area is around Addis Ababa and very deforested and encroached. I am the employer of the Enterprise, so it is not difficult for me to get information and evidence as well.

Finally the legal aspects of deforestation will specifically examine and expected to recommend on the law.

## **Methodology**

The methodology of the study is sampling the blocks area of the study and limiting by time. The methods also includes gathering and examining forest, land use and investment laws, literatures, gathering and examining evidences through questionnaires, fuel wood carrier women and peasant association leaders and also interviews judges, prosecutors and workers of Sendafaa and Chanchoo district courts and also discussion with peasant association leaders, branch managers experts, technicians and forest guards of the enterprise. In addition the method includes the evaluation of court decisions on the punishment of illegal tree cutters. Finally the recommendation that may be forwarded shall be based on the output of the evaluation of the evidences gathered through questionnaires interviews court decisions and some other mechanisms during the study.

## **Method**

The method of the study will be examining forest and investment laws based on the selected elements which means environmental policy forest proclamations investment on forest area the court decision on individual's forest transporters the keeping methods of the forests in Finfinne Forest Enterprise in general and based on selecting areas. Data and evidences will be collected (especially court decisions on the illegal tree cutters) organized and evaluated through questionnaires information and observation as well. The gap between the law and practice will be evaluated the legal aspect of deforestation and the problems may be analyzed based on the evaluation of the provisions of law and practice up on the result recommendation will be forwarded on the problem.

## **Literature review**

In earlier centuries many countries clear cut large tracts of their forested land. For example the British Isles was once covered by trees. However, by end of 18 century at least 90% of those forests had been cut down making it necessary for import timber for building ships homes and furniture.

Mayer argued that deforestation on a major scale has been occurring in the both developed and developing countries since about 1700 when it is estimated that forests

covered as much as 4.5 billion hectares of the planet. The total forest cover has declined by about 1.0 billion hectares or 23 percent during the last 300 years.

UNFAO data more recent of deforestation shows that between 1990 and 1995 forest cover declined by 56.3 million hectares. This represents an average worldwide rate of decline of 11.3 million hectares or 0.32% a year.

Mayer arguing that the greatest rate of deforestation is occurring today in tropical forests. The tropical forest deforestation is occurring primary in developing countries most of which occupy regions near the equator. The main driving force behind tropical deforestation in many tropical Island conversions. Another important deriving force is slashed and burn agriculture, also known as shifting cultivation and fuel wood gathering.

Peter Heller arguing 11 million acres a year are cut for commercial and property industries (Entity Mission) Entity mission found that British Colombia manufactures 7,500,000 pairs of chopsticks a day and the demand of fuel wood is so high that prediction says that there will be a shortage by the year 2000.

J.Rechard Mayer agreed that in South East Asia forest are being exploited for deciduous hard woods like bony teak and Mahogany which are in high demand because of their fine grained elegance and durability. Central and South America forest are being cleared for cattle ranching urban development permanent agriculture fuel wood production and hydroelectric power developments. In Costa Rica approximately two third of deforestation has been caused by conversion.

According to Heller another of the more devastating forests behind deforestation is cattle grazing with the international growth of fast food chains this seems to be an evident factor in the clearing of trees today. Large corporations looking to buy beef for hamburger and even pet food seek cheap prices and are finding them with the growth of cattle grazing. In the Amazon region of South America alone there are 100,000 beef ranchers.

Mayer arguing that an ancient custom in tropical land is slash and burn agriculture or shifting cultivation. In this practice trees are cut down allowed to dry and then burned to create nutrients rich ashes which are mixed with soil in the cleared patch of forest. The soil is then used to grow subsistence crops.

Farm Africa (1994) has also provided the existing realities of Ethiopia forestry department management practices and how it did contribute to the deforestation of the countries forest resources. The study paper elaborates that over the years the ethos of the forest department has been oriented mainly towards forest resources utilization protection and territorial control. Rules and regulations have been issued various technical experts and thousands of forest guards have been employed to meet these objectives. In spite severally compromised through massive deforestation. It is estimated that the country is loosing more than 100,000 hectares of forest a year.

In this section author's literatures were over viewed. They advocated for the cause and effects of deforestation.

### **Structure of the study**

The study will comprise four chapters. Under chapter one the cause of deforestation is over viewed the population explosion an increase need of agricultural land. Live stock production which leads to over grazing cutting trees for construction and fuel wood poverty lack of secured of tree tenure inability to enforce forest laws imposing sufficient penalty and lack of regulation and directives will be seen in short. Under chapter two effect of deforestation the reduction of agricultural production and productivity the increase of average temperature and reduction of water resources will be discussed. In chapter three the legal aspects of deforestation of Finfinne Forest Enterprise especially area of Entoto, Sendafa, Menagesha and Sebeta will be evaluated. In this chapter the major cause of forest encroachment of the enterprise and the forest and investment laws and court decision on the illegal tree cutters will be elaborated. Finally in chapter four possible recommendations on laws and the system of forest guardians will be forwarded.

## **CHAPTER ONE**

### **1.The cause of deforestation**

Forests provide essential goods and services for the livelihood of the people and biodiversity, conservation and environmental protection for sustainable economic development of the country. Forests are sources of variety of foods that supplement and complement what is obtained from agriculture, wood fuels with which to cook food and boil water and a wide range of traditional medicines and hygienic products. It also contributes to the improvement of productivity of land through improving soil fertility, water percolation and provisions of shed. It also helps in the diversification of income through employment generation and production of cash crops. Sustainable management of the forest resources of the country is very important if progress in food security and poverty reduction programs is to be lasting. In forests area rivers flow throughout the year, springs do not dry up completely during the dry season. The soil has great water retention capacity. Forests also help renew the oxygen in the air we breathe and provide a home for many animals. Therefore forests are the sources of bio-diversity.

#### **1.1Population Explosion**

In many parts of the world especially in developing countries population is growing at a break neck speed<sup>1</sup>. Many of the third world inhabitants are forced to live in squalid conditions. Land to be tilled for crop production has been diminishing from time to time and in some countries it has already gone below the subsistence level.

Today's world population is more than six billion. They constitute a significant proportion of all the people who have ever lived and it continues to grow. The human population reached one billion persons around 1830. It is expected that it took 200,000 years to attain that number. But it took only about hundred years to add another one billion persons. Three billion by 1960 and six billion by 1999.

As farming families in developing countries increase in size farm labor is in such over supply that the young must look for alternative employment. Population explosion demands more fuel wood and more plots of land for cultivation<sup>2</sup>. The demand for fuel

wood may exceed the sustainable yield of local forests, as a result of population explosion. This situation not only reduces tree cover but also leads to soil erosion and land degradation. When grazing fields deteriorate to where they can no longer support cattle, livestock herds often take to lopping foliage from trees.

A decline in the diversity of plant and animal communities makes the onset of desertification. This in turn leads to a reduction of soil organic matter, a decline in soil structure and a loss of water retention capacity. Loss of water retention capacity of an area due to less of vegetation cover would result in severe shortage of potable water.

Loss of vegetation cover is believed to reduce the intensity and distribution of rainfall whose results are recurrent droughts. It lowers soil fertility reduced further by increasing wind and water erosion. Typically the end result is a desert.

Public health is adversely affected by rapid population growth. For example multiple pregnancies take a considerable toll on the mother's body in general the more children women bear the greater danger to both mother and child. This is especially true in areas where over population has led to shortage of food. Inadequate nutrition can also lead to an increase in the occurrence of disease. Furthermore, the large migration to cities that is characteristic of many of the developing countries makes it more difficult to provide the clean water and public sanitation that are essential to the maintenance of public health.

The present trends do not suggest quick development conditions in the third world countries. Poverty is aggravated as time goes by such countries should take other methods to check the rapid population growth rates. When a country succeeds in controlling its population growth, then it can easily manage the rest of social and economic problems. Therefore, countries of the undeveloped world should not suspend controlling population explosion until they develop. Rural Ethiopia were about 85% of the population like (CSA, 1999) is characterized by extremely small farm size, generally less than half hector in populated high lands or outright farms have soil of low fertility, nutrient deficiency, and shallowness resulting in low

productivity<sup>3</sup>. These households who depend in such farms are food insecure and could not produce enough even for domestic consumption.

Ethiopia is the third most populous country in Sub-Saharan Africa with a population of 67 million in July 2002 with annual growth of 2.9%. About 85% of the people live in the rural areas. Most people live in the high lands that constitute 43% of land area of the country. As the population growth land available for agriculture shrinks. This is further exacerbated by the loss of farm land due to land degradation. About 10 to 20 thousand hectares of agriculture land is estimated to be out of use every year in the country alone<sup>4</sup>. This leads to increasing demand for agricultural land which is usually culminated in converting more forest into farmland. The fragile nature of forest soils make the use of the land short lived necessitating further clearing for fertile land.

## **1.2 An increase need of Agricultural land**

In developed and developing countries forest are being cleared for cattle ranching, urban development, permanent agriculture, fuel wood production and hydroelectric power developments.

An ancient custom in tropical land is slash and burn agriculture or shifting cultivation. In this practice trees are cut down, allowed to dry, and then burned to create nutrients rich ashes, which are mixed with soil in the cleared patch of forest. The soil is then used to grow subsistence crop.

Since 85% of the population of Ethiopia is depend on agricultural production and since the soil fertility of most parts of the country have been severally eroded by manmade and natural factors, the agricultural productivity of crop have severally declined, with population still growing at a rate of more than 2.9% against shrinking farm size and productivity, owing to deterioration in natural resources<sup>5</sup>.

The Ethiopian government is currently bent on quick economic recovery and growth and hence aggressively pushing for private sector investment both domestic and international. According to the Oromian investment authority there are only a handful of investment



applications in the forestry sector. Of there, even smaller numbers of applicants have actually implemented their investment.

On the other side in the country forest lands which is in the hand of the government communities (peasant association) are taken to the investors especially for flower growers.

### **1.3 Live stock production which leads to over grazing**

Ethiopia has large population of live stock, thus grazing pressure has increased the rate at which tree and shrub species are becoming scare<sup>6</sup>. Live stock production is one of the most important sources of deforestation in Ethiopia today. Over grazing and cultivation of steep slopes in combination with diverse topography and heavy rainfall, also leads to aggravated land degradation.

Grazing of and by goats and other domestic animals may also remove the plant cover. When the cover of vegetation is removed the soil layer is exposed to the direct impact of rain fall and surface water flowing down the slope of the land. Soil particles get denuded rapid on steep slopes by formation of gullies or ravines.

To prevent this problem, grazing in forest area should be regulated with the involvement of the community. Special conservation areas young plantation and regeneration areas should be fully protected. Grazing and brewing in forest areas need to control. Adequate grazing fees should be levied to discourage people in forest area from maintaining large herds of non essential live stock.

### **1.4 Cutting trees for construction and fuel wood**

In many developing societies, native people depend on fuel wood, mostly dead tree branches to heat their dwellings and cook their meals. Searching the forest for faller branches is an everyday task. Fuel wood is the primary source of domestic energy for 40% of the world's population. When dead branches cannot be found live branches are cut, which ultimately kills trees and accelerate deforestation.

In Ethiopia there is a huge gap between demand and supply of forest products and services estimated that fuel wood for the year 2020 would reach to 100 million M<sup>3</sup> against a supply projection of 7.7 million M<sup>3</sup>. Other products sever short supply with the lack of fuel wood people are forced to use manure instead, which leads to soil depleted of nutrients<sup>7</sup>. This creates a vicious circle, since poor soil give fewer yields and an ever greater demand for more agriculture land at the expense of the forests.

### **1.5 Poverty**

Poverty is the socio-economic environment that limits peoples' economic options, damage health, limit the formation of rural capital, reduce income generating opportunities and limits institutional and infrastructure development<sup>8</sup>. The majority of our people are now in absolute poverty. This means that these rural people have used up all their crop harvest, have no cattle to sell, and have no cash to purchase food. It is at this desperate stage that they turn to forests for survival. One way they deal with the situation is by trying to locate food items from the forest, which is generally termed famine food<sup>9</sup>. The other way that they use the forests is by selling products from the forest in order to generate cash income with which to by food item. This means that forests and forestry can serve as safety net for the poorest of the poor at the worst of time.

### **1.6 Lack of secured of tree tenure**

In Ethiopia there is no system for the rural poor to secure tenure over land and the fact that, forests need longer periods for their development means that there is not sufficient incentive to plant trees. Therefore, farmers are motivated neither to plant trees nor to protect the existing ones rather to take advantage of the existing ones.

The 1995 FDRE Constitution Article 40(4) are guaranteed the peasants to have access to the land freely and also it guaranteed not to be evicted from the land<sup>10</sup>. However there are situations that force them to evict peasants from their possessions. We have only limited land resources, but our population is increasing at an alarming rate. Today's young people become adults and demand land, because they have a constitutionally guaranteed right to get land freely. These situations, dictate us to reallocate land between the previous possessors and present claimants.

The 1995 FDRE Constitution Article 40(1) provides that every Ethiopian citizen has the right to the ownership of the private property. But this right of the ownership does not include the right to own land. This is because the FDRE Constitution provides that the right of ownership of rural exclusively vested in the state and in the public art 40(3) not be privately owned. The owners of land and other natural resources are the nation, nationalities and people of Ethiopia as a whole. The Federal Democratic Republic of Ethiopia Constitution provides the land and other natural resources cannot be privately owned, this is to exclude only the right to dispose land and other natural resources from the power of private individuals. The right to use and enjoy fruits of land and other natural resources is not limited by the Constitution. Under art 40(7) of the constitution every Ethiopia has full right to the immovable property he builds and to the permanent improvement he brings about on the land by his labor or capital. It is clear from this that forests planted by a citizen on a land are the private property of that citizen. Thus, it is imperative to divide forests in to two: Natural and Plantation forests. In this case plantation forests can be privately owned, where as natural forests are owned by state.

According to Proclamation No 542/2007 there are two kinds of forests, which mean state and private<sup>11</sup>. But according to Megeleta Oromia Proclamation 72/2003 art (3) the forest resources in Oromia are state, private and community owned<sup>12</sup>.

Therefore tenure will continue to be a serious threat to forest investment unless serious majors are taken. Forest investment is especially sensitive to tenure because it takes longer time for investment to mature and initial capital requirement can be quit high. Longer period of lease and acceptable guarantee papers are among the measures that can enhance tenure security. It should also be noted that as is true to other investment types exaggerated bureaucratic red tape in processing papers could contribute considerably to the push factors against investment.

Countries in access to capital are taking advantage of absorbing raw materials from poorer countries at ridiculously cheap prices, and value to the product through processing and sell finished products at exorbitant prices to rich countries or some times back to the poor countries from where the acquired the raw material. The huge revenue from value adding can be captured here at home if the government takes a measure to stimulate and

upgrade the existing wood processing industries which are currently very old, with worn out and primitive machineries that can hardly function at competitive efficiency and output quality. Another way of stimulating value adding is through lowering of taxes on value added forest products. Import tariffs on wood processing machineries can also be lowered or even exemption on some cases can go long way in encouraging the use of state of the art machineries for wood processing.

### **1.7 Inability to enforce laws**

Under this section an attempt is made to discuss the law and institutions of Ethiopia that have to do with ownership and legal status of sustainable forest management. The point is the use of procedures and mechanisms to enforce forest laws and regulations. The natural place to start the study of the laws and institutions of countries is the FDRE constitution as it is supreme law of the country.

The FDRE Constitution has some provisions governing sustainable forest management. The following are some of the articles. Art 43(1) The peoples of Ethiopia as a whole and each nations, nationalities and peoples in Ethiopia in particular have the right to improved living standards and to sustainable development<sup>13</sup>. Art 44(1) All persons have the right to a clean and health environment<sup>14</sup>. Art 51 provides that the federal government has the responsibility to formulate and implement the country's policy, strategies and plans in respect to overall economic, social and development matters. Particularly it should enact laws for the utilization and conservation of natural resources<sup>15</sup>. Art 89(8) Government shall endeavor to protect and promote the health, welfare and living standards of the working population of the country<sup>16</sup>. Art 92(2) the design and implementation of programs and projects of development shall not damage or destroy the environment<sup>17</sup>. Art 92(4) the government and citizens shall have the duty to protect the environment.

Thus, it can fairly be said that FDRE Constitution has some provisions that among other things are concerned with the conservation, development and utilization of natural resources. For this all branches of the federal government, the house of people representative, the council of Ministers and the judiciary are responsible. However, those provisions in the FDRE Constitution, and their corresponding obligation, are too general

to be applied to particular cases. And hence there is an increasing need for specific and detailed legislation relating to the development, conservation and utilization of natural resources consequently, it seems the house of peoples representatives has enacted some legislation, which are detailed to some extent compared to those constitution provisions, and delegated the power to issue specific rules and regulations to various administrative agencies.

The conservation, development and sustainable utilization of forests play a decisive role in combating the give and alarming situation in soil erosion and in arresting the expansion of desertification and ecological and utilization proclamation No 94/1994 is issued with this objective in view.

The ministry of agriculture and Rural Development is charged with implementing this proclamation. Particularly, the ministry shall designate, demarcate and register state and protected forest. Forests are divided in to three by this proclamation. State, Regional, Private and protected forests. State forest means any protected or productive forest, which is under the ownership of the Federal government or a regional State and that are given special consideration as to protect the genetic resources or conserved to keep the echo system with a program the state<sup>18</sup>. Private forest means a private forest developed by any person and includes a forest development by peasant association or by an association organized by private individuals<sup>19</sup>. Protected forest means a forest to be demarcated in order to make it free from the human or animal interference for the purpose water shade management and the protection of the environment and conservation of genetic resources, biodiversity and the environment in general as well as for the purpose of training and research<sup>20</sup>.

According to Proclamation No 542/2007 and Megeleta Oromia Proclamation 72/2003 it is illegal to transport and store forest products without holding a certificate of origin and destination issued by the ministry of agriculture and Rural Development and the appropriate regional body or without possession of document that authorizes the person who transports or stores forest products. If the forest products are transported or stored in violation of these proclamations, forest guards and inspectors who monitor the mobility of forest products are empowered to seize such products.

It is believed that illegal trafficking in forest products would result in unwise and wasteful utilization of forest resources which would in turn result in heavy deforestation activities. The provisions of proclamation No 542/2007 are not implemented and illegal trafficking of forest products is rampant all over the country. One handle for not implementing the federal and regional proclamations are the absence of regulations and directives. No regulation and directives were enacted to effectively enforce the proclamations in federal as well as in Oromia.

Issuing the certificate of origin and destination of a forest product is the major controlling mechanism of illegal trafficking and storing of forest products. The ministry of Agriculture and Rural Development or another appropriate organ issues such certificate only when the forest is harvested in accordance with the forest management plan<sup>21</sup>.

Illegal poachers of forests cannot have such certificates. No certificate of origin and destination means, the holder of the forest product has illegally possessed the forest products.

The federal proclamation No 94/1994, 542/2007 and forest proclamation of Oromia No 72/2003 are not properly enforced since illegal trafficking in forest products are rampant these days.

The difference of the proclamations are in Oromia forest proclamation, the person and driver who transported forest products without pass permit shall arrested and the case brought to the court<sup>22</sup>. In federal proclamation this article does not included.

### **1.8 Imposing sufficient penalty**

The issue of check points as a regulatory mechanism for wood traffic is high in the minds of many people. True enough it is not without its own drawback. However, it will be most unwise to continue with the removal of check points in the absence of a better or at least as good alternative. Whatever regulatory mechanism we opt to adopt, some preconditions should be put in place including the legalization of forest boundaries and enactment and enforcement of legislation. Even when potent laws exist to prevent unsustainable utilization, enforcement can be extremely challenging in the face of low budget and staff problems. In some cases local judges may not even be aware of the

existence of laws by which to penalize offenders. This paper is the witness for the lack of awareness of the proclamation. After Proclamation No 542/2007 promulgated, they are used Proclamation No 94/1994 which is repealed by the new proclamation.

Forest resources cover very wide areas and there is a great possibility that people who illegally cut trees could abscond without being realized. The fact that forest resources cover very wide areas has contributed to this difficulty. On this, there is a legal hurdle of burden of proof. As we saw in Welmera, Sululta, Bereh and Sebeta Awas district courts require evidence that proves an actual of a tree by an offender. That is even if some body is caught red handed within forests holding forest products or performing prohibited activities courts caught while felling the tree. From the nature of the offence itself, it is very difficult to prove the fact of felling tree by the alleged offender directly

The penalty clause of Proclamation No 94/1994 has no minimum penalty. This means the court has the discretion to impose the least possible penalty when the law does not lay down a minimum penalty for an offence. The maximum penalty under this proclamation is punished with imprisonment not exceeding two years or with the fine not exceeding birr 5,000.00 or with both<sup>23</sup>. This is not sufficient guidance to the judges.

On the other side under forest Proclamation of Oromia National Region No 72/2003 (art 15) the crime of destruction of forest shall penalized with 5 to 15 years of imprisonment. According to Proclamation No 542/2007 art 20(1) cutting as well as carrying out trees or removes, processes or uses in any way forest products from a state forest shall be punishable with not less than one year and not exceeding five years imprisonment and with fine birr 10,000.00<sup>24</sup>. But according to this research the public procurers and courts can not use these two proclamations. They used proclamation No 94/1994 to penalize the offenders.

The purpose of punishing violators of forest laws is to deter the violator and other potential violators from being involved in similar acts. Hence, the punishment imposed on offenders should have a deterrent effect. At least three variables are believed to affect the deterrence nature of punishment. These include the variables of certitude, severity and celerity. To begin with the variables of certainty, the idea is that the people should be

certain as to whether punishment to be imposed up on them in case they cut trees. Secondly, punishment should be swiftly imposed offenders. Thirdly the punishment should be severing enough to weigh against the benefits of committing the particular crime. The point here is that the punishment imposed in the above proclamations is not severing enough to deter calculative offenders. According to Proclamation No 94/1994 the punishment of two years imprisonment is nothing compared to the benefit of cutting trees. By this and other reasons federal government promulgated new proclamation. The variable of certainty and swiftness requires the effectiveness of our law enforcing machinery, which has a number of problems. The Proclamation relies mainly on forest guards to ensure that forests are protected. In this regard, the use of advanced technology in controlling and investigating violators of forest laws is required.

### **1.9 Lack of regulations and directives**

Regulation can be carried out by the use of the three constitutional organs of government and by the use of regulatory agencies. In the first, the law making organs will in act laws and these laws will be enforced and interpreted by the executive and the judiciary respectively. But in the second case, laws will be enacted, applied and interpreted by expert regulatory agencies created for this purpose. In most cases the first possibility will not be sufficient and as a result it should be supplemented by the second method. The creation of regulatory agencies is necessitated because of various practical and compels reasons.

First, the legislator needs to gain the assistance of professionals in working out a particular program. These specialists may have expertise not usually shared by the legislators. Thus, the legislator may establish the rudiments of a program and delegate the elaboration of it's to an agency. Second, by establishing primary standards and then delegating to an agency the task of adjusting these standards to current conditions, the legislator can create a useful flexibility in the face of changing circumstances. Thus flexibility is perhaps more useful where technology is rapidly developing, such as environmental controls. Here the legislator can avoid ferrying technology by seating general standards and committing their implementation to an agency. Third, avoiding the diversion of that body from great to small objects may usefully conserve the resource of



the legislator, and so power respecting these small objects is delegated. This is because agencies have lower decision costs.

Therefore, the point here is that general policies and laws are necessary but not sufficient and hence they should be supplemented by implementing laws and institutions. Some commentators have suggested that following a clear sequence of action involving four steps can develop an effective structure for environmental management (this can also apply to forest management) First, a national forest policy must be developed in order to provide general direction and guidance. Second, a coherent body of forest law must be drafted to provide a framework for implementing the national forest policy. Third, appropriate institutional structures must be established to implement the new legislation.

Finally, the government structures established must develop the capacity (for instance trained staff and appropriate facilities) to implement the law. Regulatory agencies with the power to make laws adjudicate disputes and implement the laws should be established.

The Federal Proclamation No 542/2007 and forest Proclamation of Oromia national region No 72/2003 are general laws and they require regulation and directives for their implementation. In the absence of detailed rules of regulation and directives, it is difficult to put in to action the general provisions of proclamations. The federal and regional proclamations take of benefit sharing by the local people. However, detailed rules are not given as to how the benefit sharing is going or be exercise. So regulations and directives are needed for the implementation of the general rules of proclamations<sup>25</sup>.

### **1.10 Lack of coordination's among activities different government institutions**

There are a number of sectoral activities that have an impact on forest resources of these the main one is an investment activity. Investment laws require that any investment activity should not contravene the operational laws especially they require investment activities to comply with conditions stipulated in environmental protection laws. But the actual fact suggests the otherwise. There are practices of giving lands covered by thick

forests to investors. There are instances where the institution concerned with the protection of the environment become aware of such activities after the investor has cleared the forest and started his operations. Tragically, some investors quit their investment project after harvesting all the forest products from the land they received for investment activities. In this case the researcher is witness the forest around Holota, Menagesha, Sebeta and Sululta is cleared for investment activities.

On the other hand, government officials and those who make policies do not usually consider deforestation as a serious problem. Many institutional failures have been identified as contributing factors to deforestation. The forestry departments have a low status within governments relative to competing land uses, reflecting the economic power base in the countries. Typically, forestry departments are handicapped by poorly paid staff, inadequate budgets, lack of staff and lack of staff training. As a consequence, the departments have been ineffective in successfully putting forth pro forestry arguments to the political decision makers and the public at large. Even when there are adequate policies and legislation in place, the weakness of the departments in enforcing the law, resisting political pressures and maintaining a field presence has bred contempt and indifference for the law<sup>26</sup>. The government must consider forests as something on which the livelihood of millions has depended.

## **CHAPTER TWO**

### **Effect of Deforestation**

Deforestation is often carried out for valid economic or cultural reasons it has adverse effects on the environment. Deforestation alters forest habitats, disrupts plant and animal, populations diminishes biodiversity endangers wildlife survival and affects global climate patterns.

For example recurring drought in India is blamed on extensive deforestation.<sup>1</sup> Scientist estimate that forest cover must be increased four folds if the country is to regain adequate rainfall.

In Ethiopia recent drought and famine appear to be linked to deforestation in the country's western high lands. As forested lands there were cleared rainfall declined dry periods occurred more frequently and agriculture failed.

There are three reasons for what happened in Ethiopia.<sup>2</sup>

1. Trees pump ground water from deep soil in to the atmosphere. When trees are cut down, less moisture is pumped in to the air and less precipitation occurs.
2. Deforestation opens forest ecosystems, allowing humid air to escape, there by diminishing the forests moisture reserve. Less water is recycled in drier forests. The overall result is less cloud cover and less rain.
3. Loss of trees and tree foliage exposes the forest floor to the full impact of tropical rains, promotes soil erosion and accelerates water export from the forest to the nearby rivers. Less cycling of water takes place depending on the scale of clear cutting, land slop, topography, and severity and frequency of rainstorms.

#### **2.1 Reduction of Agriculture and Productivity**

The level of deforestation in Ethiopia is among the highest known of the 45,390km<sup>2</sup> forest that we have an estimated 8% is being lost annually(world bank, 2000)<sup>3</sup> .If the existing situation continue as they are it will not take more than two decades to loss all high forest and remain with scattered patches of wood lands. Natural resources degradation, agricultural production decline, food insecurity, and poverty are all

interwoven with each other mutually reinforcing in pushing the rural poor in a downward spiral.

The only alternative in such cases is to turn to forests either as additional source of food or to generate cash from sales of forest products to buy food in effect of loss of forests mean the loss of this value especially to the poorest segment of society.

The energy consumption of rural Ethiopia is mainly based on biomass sources for which wood fuel is the major source<sup>4</sup> when wood is scarce rural households turn to crop residues and animal dung for fuel significantly reducing the amount of nutrients going back to the soil. This in turn has negative effect on soil fertility and crop productivity and ultimately on food security.

In Ethiopia, where the economy is dependent mainly on agricultural products, deforestation has more direct impacts that deteriorate the quality of life of the people. One of the major impacts of deforestation is through its effect in reducing the level of agricultural production and productivity, making the nation unable to feed its people.

This situation has often necessitated increased volume of food imports in the form of commercial imports and also as food aid. Commercial importation of food items reduces the already poor availability of foreign currencies. The country loses its food sovereignty and dignity by always demanding food aid.

## **2.2 The increase of average temperature**

Many people in countries are concerned about global warming the current world wide trend toward warmer and warmer temperature.<sup>5</sup> Global warming has potentially serious consequences for the earth's environment such as rises in sea level affecting coastal marine life, altered precipitation patterns impacting agricultural areas, and higher average temperatures upsetting the balance of nature for both plants and animals. The global warming phenomenon is being studied by leading scientists and discussed in scientific papers, the popular press, and the electronic media.

The global warming is the result of human activities. Any regions climate can be described as a chaotic system one that is sensitive to small changes among large numbers of variables and behaves erratically. Some of the primary factors that act together to create climate will be solar radiation, green house gases, volcanic eruptions, changes in ocean and temperatures, and natural variations in the earth's rotation.

The problems of acid rain and global warming testify to the fact that pollution does not respect national boundaries. The polluting activities of industrial nations such as the United Kingdom have contributed to environmental problems such as deforestation in Scandinavian countries.

Global warming caused by the emission of green houses gases such as carbon dioxide, methane, chlorofluoro carbons (CFC<sub>5</sub>) and nitrous oxide is the major environmental concern and cannot be tackled on the fragmented national basis. It demands an International response. These are many other environmental problems that need to be lacked by international action such as marine pollution and Tran frontier shipment of waste.

The development of international law regarding environmental protection began in 1972 with the United Nation conference on the human environment. This conference was held in response to the ground swell of public awareness about environmental pollution, particularly in North America. The conference amongst other things, led to the introduction and development of the European community's first environmental action. International law of the environment has contributed significantly to the development of European community's law, and subsequently domestic law. This is well recognized in the United Kingdom government's environmental policy.

While the practical effects of international agreements may not be immediately apparent it is clear that they focus attention on to environmental problems and provide the basis for cooperation in international environmental protection. The earth summit held at Rio de Janeiro in 1992 attracted worldwide attention and although it was criticized in some quarters, at the very least it brought together over 150 countries and numerous international pressure groups in a process that is still on going<sup>6</sup>

This convention was agreed by over 150 parties at the United Nations earth summit in Rio de Janeiro. The convention is aimed at reducing emission of carbon dioxide and other green house gases to 1990 levels by the year 2000. Signatories are required to prepare national programmers to meet these targets.

### **2.3 The high level of silt at hydroelectric dams**

The impact of deforestation and de vegetation is high level of silt at hydro electric dams<sup>7</sup>. As a result of silt the water holding capacity of the dams shall shrink and the potential to produce electric power shall be reduced. The main cause of silt is soil erosion<sup>8</sup>. Soil erosion is aggravated by loss of vegetation cover of the catchments areas. The catchments of the existing and potential hydroelectric power station and irrigation dams and drinking water are emanating from the remaining high forests of the country. For example Malka Wakena hydroelectric power station is depend on Wabe river which starts from Adaba Dodola forest priority area, Gilgal Gibe depend on the rivers coming from Tiro Boter Becho and Abaya Fola forest, Fincha from the central highland forests, and the Koka dam depend on the Awash river which comes from Chilimo Goji forest priority<sup>9</sup>.

Therefore deforestation of these forests accelerate run off and soil erosion which fill the dams and cause shortening of dam's life through silt, unevenly flow of water and floods during the dry season. This situation affects all development activities of the country through maintenance costs and power interruption during the production period. For example water holding capacity of the Koka dam has significantly decreased due to silt, which is attributed to the deforestation and agriculture expansion on the catchments of the Awash and its tributaries<sup>10</sup>.

### **2.4 The reduction of water resources and rain fall**

The earth's water cycle is an essential process that provides a means of life creatures everywhere. Also, rain forests contribute to biologically important gasses in the earth's atmosphere<sup>11</sup>. They produce a large percentage of the available oxygen on the planet through photosynthesis. When the forests are destroyed, the rate at which carbon dioxide can be drawn from the atmosphere is diminished. This gas is by product of all respiring organisms, as well as a by production of the combination of organic matter, such as fossil

fuels. If carbon dioxide builds up in the atmosphere, the average temperature on the surface of the earth can increase, affecting most aspects of human life. The negative consequences of reduction of water resource are the increasing draught and desertification and crop failure, coastal flooding and displacement of major vegetation regimes<sup>12</sup>.

## **2.5 Soil Erosion**

Soils are just a tiny fraction of all earth materials, yet they are vital resources. Because soils are necessary for the growth of rooted plants they are the very foundation of the human life support system. Just as human ingenuity can increase the agricultural productivity of soils through fertilization and irrigation, soil can be damaged or destroyed by car less activities. Despite their basic role in providing food, fiber, and other basic materials soils are among our most abused resources<sup>13</sup>.

Perhaps this neglect and indifference has occurred because a substantial amount of soil seems to remain even where soil erosion is serious. Nevertheless, although the lose of fertile top soil may not be obvious to the untrained eye, it is a growing problem as human activities expand and disturb more and more of earth's surface.

The lushness of the world is tropical forests is somewhat deceptive. Although these forests assume to be lush and full the under lying soil are very poor, all most all the nutrients being bound up in the vegetation. The problem is that once forest has been cut down, essential nutrients are washed out of the soil all together. This leads to soil erosion. As of now about 80% of the soils in the humid tropics are acidic and infertile (Dudley 21). When there are no trees to keep the soil in place, the soil becomes ripe for erosion. It dries and cracks under the sun heat. Once the soil temperature exceeds 25 degrees centigrade volatile nutrient ingredients like nitrogen can be lost further reducing fertility of the remaining soil (Myers 14) further more rainfall washes remaining nutrients in to rivers. This means that replanting trees will not necessarily help to solve the problems of deforestation. By the time the trees have matured, and the soil might be completely stripped of essential nutrients. Eventually, cultivation in the forest region will be

impossible, and the land will be useless. The soil erosion will lead to permanent impoverishment of huge land areas<sup>14</sup>.

The social impact of soil erosion can be quite severe. Those who settle in to the forest regions are forced to move every year or so due to soil erosion. They find areas where they can cultivate when those areas are no longer good for growing they move to another area.

Soil erosion here refers to all physical processes that loosen or tear of soil particles and displace the detached particles from the parent sites. The most common factor causing soil erosion is the destruction of forests and other natural vegetations<sup>15</sup>.

In Ethiopia the permanent loss in value of the country's soil resources caused by soil erosion in 1990 was estimated to birr 59 million. This is the amount by which the country's soil capital should be depreciated in the national accounts or which should be deducted from the country's net national income<sup>16</sup>.

## **2.5 Desertification**

Desertification is the reduction in or loss of biological productivity of land (land degradation) particularly in dry land ecosystems. Conventional wisdom is that desertification is on the increase and that it how threatens about b/n 25 and 35% of the earth's land surface and b/n one-sixth and one-quarter of the world's population. Chapter 12 of agenda 21 (United Nation Convention on environmental development, 1992 b) suggests that about 70% of the world's dry land and one-quarter of the total land area of the world are affected, degraded. According to the United Nation environmental program (1995 e) directly affects 250 million people and directly puts at risk another one million, many of them already living in poverty.

The cause of desertification includes human activities and climatic variations. Changing land use pattern and ecologically un sustainable agriculture, including over cultivation, planting of inappropriate crops, heavy use of fertilizers and chemicals contribute to the kind of soil erosion and land degradation that results in desertification. As with deforestation, such practices are often the un intended consequence of development



programmers inequitable land tenure and enforced unsustainable use of marginal lands rather than the result of conscious and deliberate negligence by local communities. Changes in climate patterns, as a result anthropogenic interface as well as natural climate cycles, chronic drought and desiccation also contribute desertification.

The ecological impacts that help to define desertification include decline in soil fertility and soil structure, loss of bio diversity, degradation of irrigated cropland and loss of arable land. The socio economic effects include food security and loss of subsistence livelihoods with malnutrition, starvation and forced movement of people. There are also extensive economic costs.

Combat desertification and mitigate the effects of draught in countries experiencing serious draught and desertification, particularly in Africa. Through effective action at all levels supported by international cooperation and partnership arrangements in the framework of an integrated approach which is consistent with agenda 21, which a view to contributing to the achievement of sustainable development in affected areas (UNEP, 1994 h)

Action on desertification should according to the convention, be informed by the principles of participation including local participation cooperation at international, national and local levels and consideration of the special needs of affected developing countries. Both affected countries and developed countries have obligations under the convention, the farmer to give priority to desertification and to enact of strength laws, policies and action programmers in support of this and the letter to provide support and financial resources and facilitate access to technology, knowledge and know how.

## **CHAPTER THREE**

### **3.1 Law and deforestation**

By law one of the solutions presented to deforestation is the pre-urban plantation projects. The problems of management system of pre-urban plantation projects (Enterprises) is one of the least addressed issue in the Ethiopian forestry sector.

In Ethiopia the role and potential of pre-urban plantations in supplying wood product and protecting water shed needs has received attention mainly since in 1980. The great effort was made both by Ethiopian government and by bilateral and multilateral Organizations, to establish fuel wood plantations around Addis Ababa and many other towns.

To exploit the opportunities created, several a forestation and re forestation companies have been organized and thousands of hectares of land were covered with millions of tree seedlings<sup>1</sup>.

Although such mass movement was of great achievement by itself, several poor forest management systems were encountered in the processes. The existence of these forest management problems especially forest encroachment problems were latter reflected in most projects (enterprises). For instance the current socio-economic conflicts being observed in Finfinne Forest Enterprise characteristically are more of the legacies of that time.

Instead of looking in to the root causes of the problems they had with the community the management of the respective pre-urban plantation projects, have tried much to solve the problem by imposing more serious rules and regulations to ban people from entering in to plantation and curtailing the right of forest dwellers.

In spite of this how ever massive encroachment of the plantation is still very common thus the sustainability of the systems and the integrity of the forest are frequently compromised.

In this respect although there are several researchable, legal, social, economical and environmental out standing issues, so far little or no research was conducted on the forest

encroachment and its save guarding problem of plantation. There fore this study is simply meant to throw light on the issues of legal aspects of deforestation, the cause's effects and its possible save guarding strategies by delimiting its scope of a case of Finfinne Forest Enterprise in general and to indicate the magnitude and the complexities of the nature of the problems in particular.

Based on the 1975 Nationalization of rural lands the private eucalyptus plantations were handed over to the respective Associations. However the plantation became ownerless and free access to any individual. The peasant Association leaders harvested the plantation illegally sold and divided the revenue among them, rather than for the community. Most of stumps after harvested the land was converted to agriculture and other uses<sup>2</sup>.

After the government had realized that the destruction of the plantation and the fastest rate of increase in the demand for forest products for energy and construction and decided to put the eucalyptus plantation under the government management therefore the two mentioned below are established.

1. Addis Bah (from Addis Ababa to Baherdar) project which is financed by the World Bank.
2. Addis Ababa Fuel Wood plantation project financed by African Development Bank are established at the end of 1980s.

The main objectives of the plantation were to rehabilitate and cover the degraded Entoto Bereh northern shoe and Baherdar areas and to fulfill the ever increasing needs of fuel wood and construction material of Addis Ababa, Bahirdar and other towns. After the formation of regional governments, the plantation was transferred from centrally managed to Oromia and Amhara Regional states and also for Addis Ababa. From utilization 74.5% of the land and plantation area is given to Oromia. From 1995-1997 the management of plantation is continued in the name of Finfinne Fuel Wood plantation project and in 1997 Finfinne Forest Development and Marketing Enterprise is established by megelete oromia Regulation No. 7/1990 as government enterprise<sup>3</sup>.

The main activities of the enterprise are focused on the conservation development and marketing of the forest products. Currently the concession area of the state forests known by name as Jibat, Gedo, Chilmo, Dirre-Gerbica and Mojo are added to the enterprise and reestablished by Regulation No. 85/2007. After 1351.43 hectares of plantation area taken away for private flower growers and for towns around Addis Ababa, now a day the concession area is established to be 42,904 hectares<sup>4</sup>.

### **Location and area extent**

The concession area of Finfinne Forest Enterprise is extending from the city boundary to 95 kms northeast 20 and 270 kms west and north west of Addis Abeba along Jimma and Wolega roads respectively and 30 kms to the south of Addis Ababa.<sup>5</sup> The total concession area of the enterprise is 42,904 hector which is

- A. 22,036 hectares classified as plantation forests.<sup>6</sup>
- B. 16,694 hectares classified as natural forests and
- C. 4,174 hectares classified as open areas.

More than 1351.43 hectares of plantation have been converted to flower farm by the private investors (Enterprise management plan document 2005:2-3).

Most of the studied areas of the enterprise are covered with monoculture, Eucalyptus species including small areas of pines and cypresses man made plantation.

### **3.1.2 Socio economic features and forest resources of the enterprise**

The forest resources of the enterprise are under a great influence of the local and urban communities. So before we can proceed to the legal aspects of the enterprise, it is very important to study the socioeconomic situations of the study area. Thus, the socio economic study of the forest area was conducted on the socio economic situation of the rural communities living inside and around the plantation forest and the forest resources. This socio economic study aims to identify the socio economic situation of the forest only the limited area around Sebeta, Sululta, Menagesha and Sendafa and assess the impact of the local communities identify the problems and potentials found in the areas on the forestry development and utilization and identify the problems and needs of the communities. According to the information I got from kebele peasant association

leaders,<sup>7</sup> the people were moved out of their plantation program in 1980s. However these people who had been relocated come back to their own home stead following the change of the government in 1991.

### **A. The Population size of the research area**

There are 26 kebeles found inside and adjacent the study area, with the total husband of 23,526 and total population size is 164,628 (the socio economic survey of 2004 of the enterprise) have been included in the socio economic survey to identify the impacts of the communities on the forest and forest role in the livelihood of the people.

These 26 kebeles are located in Entoto, Menagesha, Sebeta, and Sendafa areas. The sample survey has shown that each family have an average size of 7 members out of which 68.5 % was male and 31.5 % ware female<sup>8</sup>.

### **B. Age distribution**

Age distribution was calculated from the survey data of randomly selected 151 house holds; with total family members of 1080.<sup>9</sup> There fore the result was shown that 46% of the respondents were under age 15 where as only 4.7% has an age of more than 60 years and sex distribution was nearly 50%.

The high inactive age group implies that:

1. There will be much more shortage of agricultural land for local communities.
2. Creation of different job opportunities are very critical.
3. Improving the livelihood of the local communities through different income generation mechanism is essential to feed the existing once and to send the children to the school.

If proper actions may not be taken at the right time, this could lead to the deterioration of the living situation of the local communities and exacerbates the destruction of the forest resources of the enterprise. In the long run, as these dependents are grown and become the active member of the communities, they have to look for different means of income to establish them and accumulate resources for their future life. However, as population growth is more than the carrying capacity of land in the area and absence of agriculture to them, they will move to participate in the illegal cutting and marketing of forest resources found around them.

### **C. Male to female ratio (sex ratio)**

The study has shown that the male to female ratio is about one-to-one. Thus any development plan has to be including the women for its effective efficient implementation. Even though it is crucial to involve and benefit the women than the men, since the feeding of the society is mainly rests on the women.

The study of fuel wood carriers confirms that women are the ones who frequently transport forest products to the towns. This implies that the women need more support to create other means of income to minimize pressure on the forest and improve the livelihood of the house hold.

### **D. Land holdings**

According to the socio economic survey of the enterprise forest area 2004 selected by the researcher is the average land holding size of the house hold was 1.88 hector and the total area out of which 1.65 hector or 88% of the land was allocated to agriculture. The mean land holding size per house hold was the largest for Bura Maru, Tulu Korbecha and Berfeta Lemefa with about 7.76 and 3.72 hectares per respondent respectively. Average land holding size was smallest for kebeles Weserbi Guto and Furi Garabolo with about 0.47 and 0.67 hectares respectively.

Kebele peasant association leaders responding during our discussion<sup>10</sup> that the average land holding size per house hold in each kebeles have variation. Those farmers who own farming plot continuous with the plantation boundary have smaller area of land, compared to farmers found at distant area from the plantation boundary.

### **3.1.3 Transporting and Marketing of forest products**

The forest resources of the enterprise have significant contribution in the sustenance of the livelihood of the local communities and the urban poor. According to the survey made for seven days at different entrance gates to Addis Ababa through the concession area of the enterprise, any people have been involved in the marketing of different types of forest products, which include farmers, housewives, fuel wood carriers, daily laborers etc. Thirteen entrance gates were used to collect data on the quantity, type and means of

transportation, sources, frequency and structure of society involved in the business of forest production.

**Table one: - Summary of forest product transported with the seven days of the survey period**

| Unit           | Keresu | Burayu | Border of N/W | Gojam Ber | Kali | Kaliti | Sansuzi | Wetebsha | Furi | Ankorcha | Mariam | Dote | Karalo/ DescBer | Total |
|----------------|--------|--------|---------------|-----------|------|--------|---------|----------|------|----------|--------|------|-----------------|-------|
| Men load       | 1458   | 367    | 9             | 195       | 46   | 77     | 53      | 95       | -    | 92       | 101    | 108  | 682.5           | 3283  |
| Women load     | 1627   | 217    | 161           | 2065      | 461  | -      | 1006    | 711      | 342  | 766      | 4446   | 866  | 384             | 12702 |
| Child load     | 496    | 61     | 29            | 689       | 28   | -      | 46      | 31       | 17   | 193      | 54     | 2    | 107             | 1747  |
| Donkey         | 1576   | 1090   | 6             | 1829      | 304  | -      | 518     | 470      | 138  | 948      | 1059   | 252  | 745             | 8935  |
| Vehicle        | 568    | 146    | -             | 67        | -    | 467    | -       | -        | -    | -        | 50     | -    | 3425            | 1648  |
| 25 kg sacks    | 193    | -      | -             | 424       | -    | 23     | -       | -        | -    | -        | -      | -    | -               | 640   |
| 50 kg sacks    | 780    | -      | -             | 39        | -    | 3393   | -       | -        | -    | -        | -      | -    | 412             | 4624  |
| 100 kg sacks   | 28     | 2      | -             | 256       | -    | 238    | -       | -        | -    | -        | -      | -    | 3498            | 4022  |
| Pieces         | 4      | -      | -             | -         | -    | 35     | 6       | -        | -    | -        | -      | -    | -               | 39    |
| Truck trail    | 14     | -      | -             | 5         | -    | -      | -       | -        | -    | -        | -      | -    | -               | 19    |
| M <sup>3</sup> | -      | -      | -             | -         | -    | -      | -       | -        | -    | -        | -      | -    | 1136            | 1136  |

Source: - Enterprise survey 2004

The study has shown that the highest flow of forest products was recorded at Kersa whereas; the main entrance gates for the charcoal were Kaliti and Karalo (Dessie Ber). Entoto Mariam, Gojam Ber, Kersa and Sansuzi were the gets where the majority of the women load comes to the city. The three most gets for the use of vehicles were Kersa, Kaliti and Dessie Ber.

The study has shown that women and donkeys transport most of the forest products. According to the findings of the survey 12,702 women load, 8935 donkey load, 3283 men load etc of different forests products were transported to Addis Ababa.

The forest products are collected and taken to the market using different means of transportation which include donkey (29%), vehicle (0.7%), men load (4.1%), women load (36.8%) and child load (10.6%). This shows that women load has the highest percentage where as small quantity is transported by vehicle. Individual consumers are the main buyers of forest products from these forest collectors.

### **3.2 The Role of Finfinne Forest Enterprise in managing and protecting forest from encroachment**

The problems of energy and construction materials have long been perceived to exist in both rural and urban areas of the country. Governments of Ethiopia and international communities in the past have made several efforts to curb these problems. Thus, Addis-Bah forestry development project and Addis Ababa fuel wood plantation project were the two of those initiatives established in 1980's to achieve two objectives.<sup>11</sup>

- ✚ To increase the fuel wood supply for Addis Ababa market.
- ✚ To improve the infrastructure conditions for population in the area.

After these projects phase out in 1987, Finfinne Forest Development and Marketing Enterprise was established in 1997, from the incorporation and merging of these two projects by taking 75% and 95% of total resource from the two projects respectively<sup>12</sup>. After this Finfinne Forest Enterprise is establish by Regulation No 85/2007 at 29<sup>th</sup> day of June 2007.



According to the Regulation No 85/2007 the long term goal of the enterprise was to assure a sustainable pre-urban forest management including the improvement of the cultural and environmental land scope of the urban center of Addis Ababa and near cities.<sup>13</sup>

1. To realize development, protection and sustainable utilization of the forest resources found in its concession area
2. To ensure sustainable management of bio diversity conservation.
3. To contribute the improvement of the socio economic condition for the local people living around the forest area.

To implement the stated objectives, the enterprise has formulated the strategic plan document which is come from the former regulation. The annual targets of the enterprise are extracted (with some updating) from this management plan. According to this document and regulation to establish the enterprise the major activities are:-

1. To protect and develop the forest resources in its concession in accordance with the pertinent laws and regulations.
2. Ensure sustainable supply of different forest products such as logs, lumber, transmission poles, construction materials, fuel wood to contribute the fulfillment of growing demands for such products.
3. To develop a sound forest management plan with the supports from agency.
4. To provide technical support to farmers around the forest in their effort to develop their private forests.
5. Contribute to improvement of local communities livelihoods through creation of job.
6. Develop wildlife resources occurring within its concession area on a sustainable basis.
7. Devote share of the revenue obtained from sales of forest productions in social and economic development of local communities.

These activities of practices are assumed to be the basic physical work processes whether the enterprise is a business institution or is committed to discharge its responsibility to manage such a large pre-urban plantation is evaluated.

## **The existing forest protection and safe guarding practice of the enterprise**

The issue of forest guarding has a long history equal to the history of this forest itself. Forest protection in the enterprise has remained as one of the most complex, delicate and challenging management practice.

According to the branch managers of the enterprise,<sup>14</sup> the problems of the enterprise have been directly or indirectly involving around the issue of forest encroachment and guarding strategies. The worst part of this business is that, the “intruding” to be excluded from the forest is the community and the expected safe guards of the forest are simultaneously the member of the community itself. These guards once were the owner of this reforested land, from which they used to generate agricultural products for their livelihood.

One of the agent of Sululta agricultural office said that, in the study area commented that, for the guards this employment opportunity is simply a mere compensation for the lost land due to the expansion of the forest. Because, this was the very understanding and terms of agreement on which they agreed to give up their land, so whether the forest under discussion is guarded or not it does not give them a full fledged meaning.

The effectiveness of this type of traditional guarding system, the efficiencies of the guards under question and hence the sustainability of the plantation is the fundamental issue of the enterprise. Moreover it is paradoxical that although the enterprise has employed more than 600 of forest guards, the magnitude of deforestation of this plantation has not stopped.

The measure being taken by the enterprise is to lay-off dozen of guards only to replace them letter on by others, probably the relatives of the previous or their descendents. This action in turn could not bring the expected result for the enterprise except aggravating the encroachment rate to a wider degree.

In the enterprise, harvesting is important activity not only it is a source of revenue for the enterprise and a bio mass supply for urban market, but also it is from this activity that a

good proportion of money is made to flow back to state treasury as a contribution to the country's Growth Domestic Product (GDP). (Finfinne Forest Enterprise annual report September 2007)

Since the last few years the enterprise is providing different forest products, such as fuel wood construction, materials and different types of poles to Addis Ababa market. The enterprise apart from its significant market coverage with fuel wood and construction materials, it is the leading supplier of transmission poles to the Ethiopian Electrical Light and Power Authority and Ethiopian Telecommunication Corporation and other local wood processing organizations. The annual production and supply of the enterprise ranges in 1997 81,562.929 m<sup>3</sup> and in 2007 121,888.1 m<sup>3</sup>.<sup>15</sup>

### **3.2.2. The major cause of deforestation in the concession area**

The forest is fully surrounded by the local communities, farmers and residents of Addis Ababa and other small towns. Thus the forest has significant contribution in the food security of the rural and urban communities living in and adjacent to the forest area. Therefore, the following basic needs are among the major causes for the forest deforestation of the enterprise.

#### **3.2.2.1. The expansion of Investment**

Investment, especially the foreign one is plays a great role in the growth of the country. The countries who receive foreign investment require providing a source of new technology, to create job opportunities which reduce un employment in the country.

Most of developing countries are fighting against poverty to win this fight they are struggling for economic growth, development and social welfare. One of the mechanisms are importing and promoting foreign investment.

To import investment encouraging modalities and guarantees for foreign investment should exist. The foreign investors seek protection for their assets. For this purpose they directives about investment laws, regulations and directives about investment. The starting point of this paper is not asses the laws regulations and directives of investment, but, however, to assess the expansion of investment in the forest area.

The Oromia National Regional Government investment activities are based on agricultural production, especially the flower investment can be sited. Most of foreign investors in Oromia especially around Addis Ababa undertaking flowers investment activities. Flower investment needs large size of land. The forest land around Addis Ababa is in the hand of the enterprise. (Concession area of the enterprise) For this purpose the Oromia National Regional Government expropriates the forest area from the enterprise.

According to document I got from the enterprise from 29<sup>th</sup> day of December 2000.<sup>16</sup> (24 hectors of land is given to ETHIODREAM PLC).

Up to December 2007 total 608.74 hectors of forest land are given to the investors. Which have advantage for the local people? Forest or floriculture investment? Which preferable for sustainable development of the country? Is the land expropriated from the enterprise is for public interest? I left the answer for readers of this paper.

The forest land allocated for floriculture investment is mentioned in table two.

**Table two:- Areas given to investment office of Oromia for floriculture**

| No | Forest area | Range | Compartment | Area in hector |
|----|-------------|-------|-------------|----------------|
| 1  | Menagesha   | 5     | 3B          | 29.38          |
| 2  | Menagesha   | 5     | 6           | 32.74          |
| 3  | Menagesha   | 5     | 8           | 44.33          |
| 4  | Menagesha   | 5     | 9           | 41.38          |
| 5  | Menagesha   | 5     | 10          | 83.02          |
| 6  | Menagesha   | 5     | 11          | 15.60          |
| 7  | Holota      | 6     | 1A          | 33.82          |
| 8  | Holota      | 6     | 1B          | 9.25           |
| 9  | Holota      | 6     | 1C          | 19.63          |
| 10 | Holota      | 6     | 2A          | 28.25          |
| 11 | Holota      | 6     | 2B          | 13.88          |
| 12 | Holota      | 6     | 3           | 55.88          |
| 13 | Holota      | 6     | 4           | 54.00          |
| 14 | Holota      | 6     | 5           | 50.45          |
| 15 | Holota      | 6     | 6           | 42.38          |
| 16 | Holota      | 6     | 7           | 54.75          |
|    | Total area  |       |             | 608.74         |

Source:- Forest management plan of enterprise, 2004 as amended

On the other side, I mentioned in the statement of problem the enterprise concession area is given to the nearby towns around Addis Ababa for the expansion of urbanization.<sup>17</sup> Forest areas around Burayu and Gefersa dam is given to the Burayu town administrative office, the forest land around Entoto is given to Sululta, and also the forest land around Alem Gana is given to Sebeta town administrative office. Large number of tree species such as Hogenia, juniperus procera and eucalyptus are cleared and now the whole area is used for housing and other industrial purpose. The establishment of town and villages that pushed the community for high demand of fuel wood and construction poles clearing the vegetation for different purpose as left Burayu, Menagesha, Sebeta and Sululta towns and surroundings without any vegetation cover and this has resulted in sever soil erosion. The rain fall on bare hills has washed all the top soil and the siltation

of Gefersa and Dirrie dams which supply water to Addis Ababa are became a great treat to inhabitants of Addis Ababa.

On the other hand the erosion comes from Entoto hill is the other treat for Addis Ababa and Burayu towns.

**Table three:- Forest area given to towns and horticulture**

| No | Forest area                | Range | Compartment | Area in hector |
|----|----------------------------|-------|-------------|----------------|
| 1  | Sululta                    | 2     | 1           | 102.32         |
| 2  | Sululta                    | 2     | 2           | 125.07         |
| 3  | Sululta                    | 2     | 3           | 171.94         |
| 4  | Sululta(for horticulture ) | 2     | 5           | 14.00          |
| 5  | Sululta                    | 2     | 13          | 19.00          |
| 6  | Burayu                     | 4     | 1           | 8.01           |
| 7  | Burayu                     | 4     | 8           | 89.03          |
| 8  | Burayu                     | 4     | 9           | 72.27          |
| 9  | Burayu                     | 4     | 10          | 61.36          |
| 10 | Burayu                     | 4     | 12          | 6.00           |
| 11 | Sebeta                     | 2     | 4           | 48.69          |
|    | Total area                 |       |             | 742.69         |

Source:- Forest management plan of the enterprise 2004 as amended

Regarding compensation the concession area of land is taken from the enterprise with out payment of any compensation. The investment proclamations of FDRE and Oromia does not provide regarding expropriation of land and compensation to be allocated for investment. But it is provided by proclamation No 455/2005, the proclamation to provide for expropriation of land holdings for public interest.<sup>18</sup> It provides how land is expropriation and compensation to be effected. As far as expropriation of land holdings for investment is concerned, the Oromia government by its use of rural land for investment law doesn't provide as how land is allocated.

According to Proclamation No 455/2000 Article 7(1) A land holder whose holding has been expropriated shall be entitled to payment of compensation for his property he made

to such land. The amount of compensation for property situated on the expropriated land shall be determined on the basis of replacement cost of the property.

As I mentioned in this paper at the earlier time the two projects (Addis Bah and Addis Ababa fuel wood plantation projects) are developed and utilize under the aid of World Bank and African Development Bank. So it is questionable the expropriation of the enterprise concession area without compensation.

### **3.2.2.2. The needs of forest products for house holds and energy consumption**

Rural and urban house holds were, for years, supplied with the traditional biomass energies from varied sources. High natural forests, wood lands, shrub lands, grasslands, cultivation fields, farmer's on farm and community plantation and pre-urban plantations are among the widely recognized sources.

Later on the increasing need for agricultural land coupled with population increase as gradually resulted in depletion of most of these biomass resources.

Consequently, the role of pre-urban plantation in urban and pre-urban area attracted the attention of many people. An increasing importance was given to expansion of plantation around Addis Ababa, because of the increasing number of other towns (Burayu, Sululta, Sandafa, Sebeta and Menagesha) and rapid urbanization. Therefore, pre-urban plantation among the other sources of biomass energy was seen as one alternative solution for the socio-economic and environmental constraints that have encountered the households.

Thus, in metropolis of Addis Ababa and around many other towns of the country, the critical need for fuel wood was the decisive factor that influenced and governed the identification and continued existence of forest encroachment in the pre-urban environment.

### **3.2.2.3 The need of forest products for income generation**

The greatest contribution of trees to food production and food security is at the farm level. Trees under various form, either as single trees or organize in lines or clusters (shelter belts, groves) have a fundamental part to play in food production and food security.

Forests have significant contribution in the food security of the rural and urban communities living in and adjacent to the forest areas.<sup>19</sup> The majority of rural communities get their fuel wood, construction materials and farm implements mainly from the forest of enterprise. They also employed more than 600 forest guards selecting from peasants living around the forest area. More than 1000 forest loggers comes from the southern part of the country to harvest forest from September up to June annually, and daily laborers working in saw mill and nursery. The income from the forestry sector can supplement the income from agriculture of the local communities. Similarly, there are also some poor people who are highly/totally dependants on the forest for their daily income source due to lack of agricultural land and access to other job opportunities.

On the other hand according to the study of 1990's women fuel wood carriers by Addis Bah forestry project result, there are more than 35,000 women fuel wood carriers were daily moving and out the forest to collect fuel wood from the plantation of the enterprise.

### **3.2.2.4 The impact of court decision on the illegal tree transporters**

As mentioned in the introductory part of chapter one forest is one of the natural resources the conservation, development and utilization of which affects the bio diversity the human health and economic development in many ways. This resource which has such found implications is now in danger in Ethiopia in general and in the Finfinne Forest Enterprise is the court decision on the illegal tree transporters.

One of the major impacts is the lack of awareness of promulgated laws. The example of this is Proclamation No 542/2007 has been effective from 4<sup>th</sup> September 2007<sup>20</sup>. But the district courts around the studied area are sentencing the accused persons (up to the discussion with judges) by Proclamation No 94/1994 which has been repealed by the new proclamation. (as per information gathered for this study).



The purpose of punishing violators of forest laws and regulations is to deter the violator and the other potential violators from being involved in similar act.

The history of criminal law shows that what is considered to be the purpose of criminal laws has been changing from time to time with the development of human knowledge about the criminal mind. That is, with the development of criminology.

According to deterrence it is believe that the suffering an offender under goes because of his punishment will deter him from engaging in a similar or another crime in the future. The punishment also believed to set an example to others, that is, those who saw what the offender got for his crime will refrain from following the path of crime for fear of being punished likewise. The forestry conservation, development and utilization proclamation No 94/1994 on article 16 provides that any person who <sup>21</sup>

- A. Cut trees, takes, processes in any other manner use forest
- B. Destroy damages or falsifies forest boundary marks
- C. Cause damages to forests by setting fire or in any other manner, be punishable with imprisonment not exceed two years or with fine not exceeding birr 5,000 or in both.

According to Megeleta Oromia, Forest Proclamation of Oromia, Proclamation No 72/2003 art 15 the offender shall be penalize with 5 to 15 years of imprisonment. The penalty clause of Federal Forest Proclamation No 94/1994 which is repealed by proclamation No 542/2007 has no minimum penalty. This means the court has the discretion to impose the least possible penalty. To solve this problem Oromia forest conservation and utilization law was promulgated in 2003. Even though, district courts around the forest area as not use the Oromia forest proclamation. As the result of interview and group discussion with public prosecutors and judges, they mention two major issues for the problem to enforce Oromia forest proclamation.

For the repealed law they argued that, they have no information about the promulgation of new forest proclamation.

The first issue is the penalty clause of Oromia forest proclamation is from 5 to 15 years. It hasn't alternative to penalize in fine. So, peasants who lived in or adjacent the forest area, when they cut a simple one or two construction pole his price is from 5 to 10 birr come to the court and according to this proclamation if we sentenced him the least punishment five years imprisonment it is difficult for the society.

They further argued that, the purpose of punishment is an offender under goes because of his punishment will deter him from engaging in a similar crime in future. But in this case the society around the forests didn't know of this kind of Proclamation or legal consequence. Before taking action on this, the society must know about the proclamation. They argued the rural community inside and adjacent the forest area could make aware of the need of conservation and managing the forest resources, and also when they use the product of forest illegal they have punished more than five years. After the awareness of the society we can enforce the proclamation otherwise, the proclamation is seems promulgated as revenge of the society.

The second issue they raised is the proclamation simply said "shall be penalize with 5 to 15 years imprisonment"<sup>22</sup> the proclamation cannot identify as imprisonment or rigorous imprisonment.

According to Proclamation No 414/2004 the Criminal<sup>23</sup> Code of the Federal Democratic Republic of Ethiopia, there are two types of imprisonments, simple and rigorous imprisonments. Pursuant article 106 of Criminal Code, simple imprisonment may extend for a period of from ten days to three years.

Pursuant to art 108, "Rigorous imprisonment is a sentence applicable only to crimes of a very grave nature committed by criminal who are particularly dangerous to society." The penalty clause mentioned on the proclamation is not simple imprisonment because the minimum penalty is five years which is a significant amount of time. But in law the maximum simple imprisonment is five years where, owing to the gravity of the crime, it is prescribed in the special part of criminal code, or where there are concurrent crimes punishable with simple imprisonment, or where the criminal has been punished repeatedly.

As I tried, to explain in previous chapter and statement of problem the district courts are used only to the repealed Federal Forest Proclamation to penalize an offence and not to any of the possible effective laws. But this proclamation has no minimum penalty and also the maximum is only two years. For this reasons the judges use the minimum possible penalty on the offenders which does not match the newer laws' conditions especially on sentencing.

According to the evidence I got from the file of Bereh district court from May 2007 up to January 2008 the public prosecutor institute 25 files on the illegal tree cutters. From these files 12 of them got decision. From 12 files eleven of them are penalized from two months imprisonment or penalized birr 300 up to one year imprisonment. The maximum decision given by the court is one year imprisonment. For the reason of this the illegal tree cutters increase day by day and transport specially construction poles to Addis Ababa and other towns around Addis Ababa at the cost of the destruction of the forests.

Oromia Forest Proclamation has been promulgated and distributed to all courts in Oromia regional state. But it is not enforceable and has not been enforced. As the researcher opinion this proclamation once promulgated it must enforceable for all over Oromia. Otherwise proclamation with out enforcement is meaningless.

For this critical problem Oromia regional state Forest enterprises supervising Agency or the appropriate body must find solution.

Another problem is that there is not sufficient guidance on sentencing and penalties as there is no uniformity in the cases in the courts (see table on next page). This means that the court is not consistent with regards to the crime of tree cutting which means the decisions can not be useful in deterring future tree cutting activities.

**Table four: - Decision of court on illegal tree cutters**

| No | Name of offenders   | Court          | File No | Date of judgment | Decision  |
|----|---|----------------|---------|------------------|---|
| 1  | Mitiku Abera  | Bereh district | 05914   | 9/3/2000         | One year imprisonment                               |
| 2  | A. Werku Wendimu<br>B. Derege Mengesha<br>C. Mengesha Gudie | Bereh district | 04380   | 10/3/2000        | Two months imprisonment or penalty of birr 300.00   |
| 3  | A. Retta Hordofa<br>B. Minisha Girma                        | Bereh district | 07821   | 11/3/2000        | One year imprisonment                               |
| 4  | Getu Megerssa   | Bereh district | 07700   | 17/3/2000        | Three months imprisonment or penalty of birr 500.00 |
| 5  | Retta Degefa  | Bereh district | 07714   | 26/3/2000        | Four months imprisonment or penalty of birr 300.00  |
| 6  | Asefa Tesema  | Bereh district | 06841   | 25/3/2000        |   |
| 7  | Debebe Alemu  | Bereh district | 07780   | 3/4/2000         | Six months imprisonment or penalty of birr 200.00   |
| 8  | Nugusu Alemu  | Bereh district | 07717   | 8/4/2000         | Seven months imprisonment or penalty of birr 400.00 |
| 9  | Chuchu Hunde  | Bereh district | 04376   | 30/5/2000        | Three months imprisonment or penalty of birr 300.00 |
| 10 | Dergu Zewde   | Bereh district | 05266   | 8/6/2000         | Two months imprisonment or penalty of birr 200.00   |
| 11 | A. Milisha Bekele<br>B. Awel Abdu                           | Bereh district | 04110   | 10/6/2000        | Six months imprisonment or penalty of birr 700.00   |
| 12 | A. Bushura Bekele<br>B. Nigusie Hailu<br>C. Chuchu Megersa  | Bereh district | 06659   | 4/3/2000         | Two months imprisonment or penalty of birr 300.00   |

### **3.3. Local communities biomass energy supply and its contribution** **rural-urban linkage**

In the study area the farmers<sup>24</sup> I interviewed explained that the establishment and expansion of the pre-urban plantation surrounding the city of Addis Ababa has introduced a new way of life and social relationship, both among the training community themselves and with the people in urban center. Thus, the expansion of the plantation has gradually created new cultural change and social attitude in the area.

Owing to previously the project and currently the enterprise, the farmers have lost part of their circumstance, they have been involved in various off-farm activities including in a forestation activities such as planting site preparation, plantation, weeding and forest guarding. From the discussion farmers either from observation of the on going a forestation activities or from experiences they gained through direct involvement in forest nursery operations, started to part their own seedlings as home stead planting on farm planting and latter on communal/ marginal lands as community forests.

Ministry of Agriculture,<sup>25</sup> study for redesign Addis Bah vol. 3 (1992:2) the adoption of individual forestry in comparison to the target has been high wide spread is rapidly growing.

It is very encouraging to see the high number of farmers instead in planting trees near and in their compounds. Some farmers have ever taken up to seedlings production (Eucalyptus seedling) without any external assistance in small local nurseries. This is an indication that farmers are aware of the importance and the economic value of growing trees.

Accordingly, to further build up on the already flourishing private wood lots, the project identified several types of community forests such as individual farm plots, homestead boundary planting. Group wood lots, institutional wood lots, self help community forestry and supervised community forestry.

According to the working procedure of the project (enterprise) forestry program the project will come in agreement with the individual peasant associations to provide

plantation on the community land,<sup>26</sup> where the project will provide technical assistance, financial supports and guarding costs. The farmers in their side will sign an agreement to pay back all financial expenses covered by the project, latter up on matured tree.

These community plantations more or less are additional sources of woody biomass energy that are until now being to Addis Ababa market mainly by rural women fuel wood carriers.

According to Megelete Oromia Proclamation No. 72/2003 art 11(2), the community may convert their own plantation forest to sawn wood of different dimensions in order to sell depending on the technical support and permission of the appropriate body. Pursuit to Proclamation No. 542/2007 art 4(6), the right of forest owners to use forest land and to transfer their holding rights shall be exercised in accordance with rural land administration and utilization laws. But in Federal or regional forest proclamations it is not proclaimed to give incentive to individuals or community who plant more trees.

### **3.4. The result of interview with fuel wood carriers and peasants**

According to my study, the survey has shown that the wood sellers travel a long distance to collect the forest products instead of going to school which has significant impact on social situation of the rural communities.

Discussion with different segment of the society and government officials have shown that the pressure on the forest has been emanated from the lack of adequate agricultural land for the local communities on which the local and dependent for their survival. In addition to this, the upcoming generations of most of the youth groups are either un employed or under employed which forces them to look for mean of income generation. Absence/inadequate efforts to create different job opportunities for these youth groups and benefit sharing from the revenue of the forest products has triggered a conflict between the forestry enterprise and the local communities on the use of the forest resources which could be the main cause for illegal cutting and distraction of the forest of Finfinne Forest Enterprise.

A proclamation to provide for the development, conservation and utilization of forests, Proclamation No 542/2007 art 9(3) forest development, conservation and utilization plans shall be formulated to allow the participation of local communities in the development and conservation and also in the share of benefits from development of state forests.

According to megeleta Oromia Regulation No 85/2007 art 9 devote share of revenue obtained from sales from forest products in social and economic development of local communities, but there is no directive to share revenue from forest resources.

The discussion has also shown that, the enterprise has tried to protect the forest through the use of punitive measures and by using governmental offices rather than discussing with local communities, participatory and persuasion approach. Therefore, the study has indicated the importance of involving the local communities in the conservation of the forest and benefit sharing arrangements. The farmers are not only entitled to ge benefit but also responsible for adequate conservation of the forest for sustainable production and environmental protection.

### **3.5. The Institutional problem facing the enterprise (Hostile relationships between the community and the enterprise)**

The previous two project and the latter the enterprise was initially designed to develop a total area of 17,000 hectors of community forestry and about 34,000 hectors of state forest plantation. In order to facilitate their effectiveness the project has planned simultaneously to relocate or resettle about 5400 families in to several forest villages.<sup>27</sup>

This idea of relocating thousands of families to secure land for a forestation was the fundamental causes for the hostile attitude of the community towards the enterprise. The land issue has been a difficult one to resolve, and is at the heart of the enterprise problems until this time. This is particularly true in the pre-urban areas and the metropolis of densely populated area of Addis Ababa city, where all rural lands including those undulating sloppy hill and deep valleys are already preoccupied by arable farms.

Although planners, policy makers and environmentalists are enthusiastic about pre-urban plantations, land acquisition and implementation of such a land plantation mainly under the ownership and management of state faces boundless social conflicts.

Resettled farmers in the study area are expressing discontent at the conditions under which they are compelled to live. In my field observation, I have encountered that they have not enough or no land to cultivate. What they earn from the enterprise, as daily laborers is not enough to support their families. Most of the employments in the Enterprise such as planting, pitting, weeding, nursery operations were not long lasting.

As the trees were already growth and further planting was not possible due to land shortage, they have no more opportunity for employment. Interviewed elders around Entoto, Sebeta, Sendafa and Holota are complained that no consideration has been made to compensate the old, windowed and the sick who cannot be activity engaged and even the already promised compulsory measures were not fulfilled by the project.

Ministry of Agriculture, study volume 1(A) 1992.20) commented that the problem arising from the project approach to state population, as the project had not sufficiently heeded the concerns of farmers. Marking use of the areas proposed for the agricultural purpose it took advantage of the opportune policies of the government of Ethiopia, which could be involved to oblique households to relinquish their land.

On the other hand the farmers around and in the boundary of the concession area are tried to cultivate, build fences and houses. For the reason of this and the above mentioned the case is brought to the court and they west their money and time for a long time of period (Markos peasant association Vs the enterprise for 14 years in court litigation)<sup>28</sup>

The management approach as well as the organization motto of the two farmers mother projects; hence, the enterprise was designed and established within the national socialist policy frame work of the farmer regime. Its management practices and problem resolving mechanisms also adhere to the forest proclamation No 192/1980 which state that to safe guard state forests using legal action against any person or persons is more appropriate solution than other means of conflict resolution mechanisms. Both forest population depletion, caused by illegal and selective tree cutting by the community is not only



degrading these resources but also it is one of the chronic problems in the enterprise. Its consequence is currently treating the sustainability of the plantation as well as that of the enterprise. Both outcomes of the encroachment are affecting the peasants, Addis Ababa and around towns and also the future economic balance of the enterprise. According to the report working the fiscal year of 2007 of the enterprise, it is estimated that a total area of 120 hectares deforested annually only by the illegal cutters. The magnitude of this destruction in terms of volume and money at current real market price was also estimated to be 24,000 m<sup>3</sup> and 24,000 birr respectively. More over if this forest resources were legally harvested and brought to legal market, the actual value of the products might have raised to be about birr 3,000.000.00 per year.

Under normal conditions with this much amount of money one can construct elementary school or different standards of rural roads or a number of health centers to provide services for the rural beneficiaries.

## **CHAPTER FOUR**

### **Conclusion and Recommendation**

#### **4.1. Positive and negative aspect of the enterprise**

Tree planting activities were not, as much long stayed practices in Ethiopia until the end of 1870's neither economic use of naturally grown trees nor planting of new trees were not considered important. For a long time natural forest has been cleared and suffered from manmade actions and gradually declined both in quality and extent.

It may be pointed out, at the outset, that although the Ethiopian population practiced farming from some thousands of years, tree planting was either unknown or not considered necessary. This fact is central to the understanding of the persistence and thoughtless deforestation that went for centuries. Around the turn of the 19<sup>th</sup> century following the beginning and expansion of urbanization, demand for fuel wood and construction poles become serious social problem,<sup>1</sup> which later necessitate pri-urban and urban based tree planting.

Forestry has some characteristics of its own that differentiate it from other types areas in management policy formulation or even other types of common property resources. In elaborating his basic point of arguments, first, forests constitute a natural resource that is highly degradable through over extraction, but is also easily regenerated through protection, and/or plantation. Second, forests are linking the questions of protection and regeneration with the question of how to meet the needs of forest communities.

In Ethiopia, for highly decreased of forest in 1957 E.C three proclamations are promulgated. These are:

- A. State Forest Proclamation No 225/57
- B. Private Forest Proclamation No 226/57
- C. Protective Forest Proclamation No 227/57

From 19<sup>th</sup> century up to the present day, the country has taken different measures to protect forests from deforestation, a forestation of pre - urban plantation around towns

is one such measure. But forest resources at present are facing a crisis, degradation and destruction of its vegetation and soil is being eroded running at alarming rates. Land clearance for agriculture and complete dependence on wood on fuel and construction purpose has resulted in serious forest encroachment problem.

#### **4.2 The Positive (strong) side of Federal Forest proclamation**

The Federal Forest Proclamation No 542/2007 has the following strong sides:

It has articles of promotion the utilization and development of private forest and also promotion of forest technology. It's penalty clause has six sub articles and has the minimum and maximum penalty (imprisonment with fine). These are the strong side of the Federal Forest Proclamation.

#### **4.3. Positive (strong) side of Oromia Regional State Forest Law and Forest Enterprise**

As shown the research of formation of forest enterprises and Oromia forest enterprise supervising agency, 3.1 million hectors or 8.5% of total land in Oromia is covered with forest. Oromia national regional state give attention to protect this forest promulgated forest protection proclamation and also establish Oromia forest enterprise supervising agency. Under this agency eight forest enterprises are established, namely:-

1. Finfinne Forest Enterprise(North, East, South and Southwest Shewa zone)
2. Arsi Forest Enterprise(Arsi and West Arsi zone)
3. Bale Forest Enterprise(Bale zone)
4. Borana-Guji Forest Enterprise(Borena and Guji zone)
5. Harergie Forest Enterprise(East and West Harergie zone)
6. Ilu Aba Bora(Ilu Aba Bora zone)
7. Jimma (Jimma zone)
8. Welega (East, West and South Welega zone)

Oromia Forest Proclamation has the following strong sides the law provide the forest resources ownership types in Oromia are state private and community forests, the law is encourage the ownership of community and private forests. It has clear provisions

of the minimum and maximum penalty. Totally this proclamation is encourage reforestation and a forestation of state forests (the enforcement of it seems “the lion with the teeth”)

Eight forest enterprises in Oromia are established by regulation. Those regulations include in their provisions contribution to improvement of the socioeconomic condition of the local people. They have also clear provision to provide technical support to farmers around the forest in their effort to develop their private forests.

In these regulations, the regulation provide for forest enterprises board that comprises different organs of the government to be member of the enterprise board. There is a provision the power and duties of the enterprise organization of the enterprise, members of the board, power and duties of the board, and power and duties of the manager.

These are the strong side of Oromia regional state forest proclamation and regulations to provide the establishment of forest enterprise.

#### **4.4. The strong side of Finfinne Forest Enterprise**

The enterprise is geographically located in very challenging socio-economic and topographic urban and peri-urban areas, where it can courageously fight the chronic energy biomass problem in the urban city of Addis Ababa.

In addition to this the enterprise will be responsible situation to the environment conserve and rehabilitate water sheds and arrest land degradation. The huge forest area (more than 42,000 hectors) coverage and forest resources, with appropriate management system in the future could enable the enterprise to sustain as a profitable business firm.

- Stimulation of economic activities at local and national levels the later through increasing supplies of construction, fuel woods transmission poles and other wood processing organizations.

- It increased the protection of slopes against soil erosion and regulate balance and sustained forest development and utilization guided by approved forest management plan
- Job opportunity for thousands of forest harvesters and fuel wood carriers.
- The enterprise is profitable from 2000 up to 2007 give incentive to his employees and also from the profit the proportion of money is flow to the state treasury as a contribution to the country's growth domestic products.

These are the strong side of the enterprise.

#### **4.5. The weak (negative) side of the law**

The Federal Proclamation No 542/2007 on its article three the ownership types of forest is state and private community forest is forgotten in this proclamation. Article 13 of the proclamation states that no person shall harvest forest products from a state forest with out having the necessary permit from the ministry or the appropriate regional body, where a forest product seized due to the violation of this article is perishable the ministry or appropriate regional body may shall the product at the current price and keep proceeds until a court ruling is given in the case.

According to this proclamation the forest product which is sold is kept at the office of ministry or appropriate regional body. This has the gap between the Federal Forest and the Oromia Forest Proclamation as we saw in practice. The problem is the law can not mention the office of appropriate body.(see also the next page).

The researcher believes that the forest product which is sold is kept at the office of Finance and Economy up to the decision of the court. This is the weakness of Proclamation No 542/2007. Regarding to forest Proclamation of Oromia Region No 72/2003, in penalty provision these is only penalize the violators with imprisonment, there are no fines or other alternative punishment.

As I observed from the judges and prosecutors the minimum punishment with five years is very disproportionate to punish violators who cut and red handed a single one or two construction poles have been the issue. These are in short the negative (weak) side of the law.

#### **4.6. The gap observed in the law and enterprise**

There is usually gap between what the public knows and what an enterprise can know. This is because the enterprise is relatively far from the day to day observation of certain activity. Thus, the purpose of local community participation is to assure that the enterprise will have before it the facts and information relevant to the particular administrative problem, as well as suggestion for alternative solutions. The program between the enterprise and the local community is failed because of the absence participation of local community.

The following are some of the laws that govern local comities participation and consultation.

Article 92(3) of the FDRE Constitution states that people have the right to full constitution and to expression of views in the planning and implementation of environmental policies and projects that affect them directly.

Article 43(2) states farther that Nations have the right to development and in particular, to be consulted with respect to policies and projects affecting their community.

Forest Proclamation of Oromia, Proclamation No 72/2003 in its article 9(5) provides that the traditional use right of the local people to use the state forest resources, such as fuel wood, construction wood, medical plants, shall be permitted according to the regulatory and directive of the regional state.

On regulation provide for the establishment of Finfinne Forest Enterprise, Regulation No 85/2007 on its article 6(9) it provide devote share of the revenue obtained from sales of forest products in social and economic development of the local communities.

To implement the federal or regional laws there is no regulation or directive in the enterprise. For this reason there is no benefit sharing between the enterprise and local communities. This is the gap I observed between the law and the practice done in the enterprise.

#### **4.7. Practical problems**

The major problem of urban pre urban plantation in general and that of Finfinne forest enterprise is largely related to the existing forest management system.

1. Due to the poor management approach it had with its respective community, in Finfinne forest enterprise through thousands of forest guards are protecting the forest day and night in most plantations contiguous with Addis Ababa and around cities.
2. Lack of commitment by the enterprise management for genuine communication with the victimized communities and the hostile attitude of the community towards the state forest development in their locality are the main causes for the continued socio-economic conflicts that hindered the mutual coexistence between the people and the forest in the study area.
3. The effectiveness of sanction for violations of forest laws and used repealed law shows lack of effective of the court and prosecutor offices. Districts courts are not used Oromia forest proclamation violators, as I try to mention in chapter three of this paper. It is the core problem of the enterprise.
4. Lack of legislative frame work for subjecting, regarding forest utilization, protection and development there is proclamation in federal as well as in Oromia, but these proclamations are general. to implement these proclamation there are no regulations and directives to applied the particular problems of the forest area.
5. The country's policies and strategies to wards forest development seems to have greatly contributed to the existing widening gap between the enterprises and the community for example in the regulation for the establishment of Finfinne forest Enterprise, on Article 6(9) state that share of revenue obtained from sales of forest products in social and economic development of local communities, but how? when? the percentage they get from the sales is not mention in the regulation and other directives.

6. The expansion of urbanization and different investment activities on the concession forest area without detailed study the impact of deforestation on city of Addis Ababa.
7. Lack of awareness of local communities who lived in and adjacent the forest area, government bodies, especially judges, public prosecutors and police. This measure, in the future, is feared to have an odd out come and a negative repercussion on economic and environment and water shed management of Addis Ababa and around cities.

Regarding the internal situation of the enterprise there are several problems that forced it to function bellow capacity. The main are:-

- ❖ Centralized and inflexible state of management
- ❖ Inadequate investment in human resource and technology
- ❖ In sufficient diversification in economic activity areas and services that contributed to low growth in income.
- ❖ Lack of rules directive to take any disciplinary action.
- ❖ Procedural bottle neck and in sufficient support services.

#### **4.8. Summary**

Forests have multifarious functions and uses without them life on earth would be very difficult or even impossible. There are factors that have contribution for the deforestation activities which have caused the destruction of forest resources. These are: - Rapid population growth rate that has increased the demand of agricultural land. Forests are being cleared to meet the increasing demand of food. The livestock production which again can be related with increasing population growth rate. In other word the cause of deforestation is the increase demand of fuel wood, logging, wood for timber and non timber transmission poles and construction materials. According to survey in and around the town of Addis Ababa there are a big difference between demand and supply of forest products and services.

Poverty is the major cause or deforestation. The poor rural people have no cattle to sell, and have no cash to purchase food. At this stage they turn to forest to survive their life.



Lack of secured land and tree tenure is the other of cause of deforestation. The 1995 of the Federal Democratic Republic of Ethiopia Constitution on Article 40(3) the owners of land and other natural resources are the nation, nationalities and people of Ethiopia as a whole. The constitution provides the land and other natural exclude the right to dispose land and other natural resources from the power of private individuals.

Inabilities to enforce laws are also one of the causes of deforestation. Under this section an attempt is made to discuss the law and institutions of Ethiopia that have to do with ownership and legal status of sustainable forest management. The use of procedures and mechanisms to enforce forest laws, the Federal Democratic Republic of Ethiopia Constitution has some provisions that are concerned with the conservation development and utilization of natural resources. The conservation, development and sustainable utilization of forests play the decisive role to give alarming situation in soil erosion and expansion of desertification.

Lack of coordination among activities of different government institutions and political will by government officials to protect forest and also lack of regulations and directives are the main cause of deforestation. Deforestation entails so may consequences these are, the land degradation it causes loss of agriculture productivity, making the nation enable to feed its people, hence country will lose its food sovereignty. Reduction in the amount of fresh water resources especially during the dry seasons, water wells, springs, ponds and rivers dry up as a result of several deforestation. Reduction in the corresponding heating of the planet is the other effect of deforestation.

Salutation of hydroelectric power dams, rivers, ponds is one of the consequences of deforestation.

Loss of biodiversity of the country, putting its inhabitants in a sever shortage of food, medical plants and loss of wild animals.

The finding if the assessment have revealed that deforestation and its resultant effects of land degradation have decreased both crops and live stocks yield leading to the general mass poverty and famine in Oromia national regional state as well as the country in general.

The effects of deforestation on biodiversity are the loss of genetic resources which lead to negative consequence for the countries development. These include the loss of potential foreign exchange earnings, which the diverse genetic resources of the country can produce. Deforestation also leads to harmful consequences of the change in climate which is expressed in the rise of the local temperature of the country.

In Ethiopia the role and potential of pre urban plantation in supplying wood product and protecting water shed needs has received attention mainly since in 1980. The great effort was made both by Ethiopia government and organizations to establish fuel wood plantation around Addis Ababa.

Based on the 1975 nationalization of rural lands, the plantations become ownerless and free access to individuals. For this purpose Addis Bah and Addis Ababa fuel plantations projects are established at the end of 1980's. From these projects Finfinne forest development and marketing enterprise is established in 1997. After the establishment of Oromia forest enterprises supervision agency Finfinne forest enterprise is re established with the forest concession area of 42,904 hectares.

The major deforestation in concession area is the expansion of investment especially the flower investment in and around the plantation area.

According to my research 608.74 hectares of forest area is given to the investors of flowers.

In the other hand 742 hectares of forest lands are given to the towns around Addis Ababa. The impact and lack of awareness on promulgated laws and decision on the illegal tree transporters by the courts are the cause of encroachment of the forest area.

District courts around the forest area are used only federal forest proclamation which is repealed and no minimum penalty and the maximum is two years imprisonment or with fine not exceeding birr 5,000.00. The penalty clause of Oromia forest proclamation is from five to fifteen years imprisonment. It has no penalty in fine.

## **5.Recommendation**

The significance of the enterprise's plantation to both rural and urban society is paramount. The plantation provides employment opportunities and income for the thousands of rural and urban fuel wood collectors freely. It is playing a decisive role in stabilizing the environmental and protecting the water shade of the Addis Abeba, the capital city. More over it is the source of estimated 40-45% of cities fuel wood, transmission and construction poles. However, the poor forest management approach the illegal tree cutting and the recent trend of massive uprooting the eucalyptus plantation and transferring the land to flower industry among others, are threatening the existence and productivity of this pre-urban plantation.

If the present situation in the enterprise's plantation is allowed to continue, it will lead to sever and crisis in which the rural and urban marginalized poor would suffer. Therefore, to overcome these problems the following strategic solutions would be recommended.

- 5.1. The existing forest management system in the enterprise is not the one that involve and encourages participation of the local communities. Therefore, to conserve and ensure sub sustainable management of the plantation it is necessary to change with a better management system.
- 5.2. The participation and involvement of the local people and community in and adjacent the concession area must develop and create awareness about the advantage of the forest.
- 5.3. The management of the enterprise should create awareness, negotiation with communities and reaching an agreement and has to develop skilled man power to reach consensus and change the behavior of this people.
- 5.4. According to the law and regulation to establish the enterprise, local people who live in and adjacent the forest must get benefit from the product of the forest. The appropriate body should produce directive how they are benefited from the forest product.
- 5.5. The enterprise (appropriate authorities) should create awareness to the public prosecutors and district courts about the advantage of forest, and the consequence of simple punishment on illegal tree cutters.

- 5.6. Fuel wood carrier women are collecting leaves and branch of trees individually. If the appropriate body organize them in group (association) they can benefited and may save their money appropriately.
- 5.7. Before the forest land is taken from the enterprise the appropriate body should research the advantage and sustainable growth of forestry and other investment area.
- 5.8. The enterprise create awareness to the district courts and public prosecutors to enforce Oromia forest proclamation on the illegal tree transporters.
- 5.9. The guarding strategy of forest must followed with the participation of local communities.

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**Questionnaire for the leaders of peasant associations**

1. Name the respondent -----
2. What is the name of your peasant association? -----
3. Do you know the number of members? -----  
A/ male ----- B/ female ----- C/ total -----
4. Are there members in this peasant association with no land?  
A/ Yes ----- B/ No -----  
If yes: A/ Number of members/ families/ householders  
B/ Number of young members living alone  
C/ Number of young members living with parents/relatives
5. Are there state forests in or adjacent for peasant association?  
A/ Yes----- B/ No-----  
If yes, who control's that forest area? From Oromia forest enterprises or other? ---  
-----  
-----  
-----
6. Before the state hand over the forest area who control and use that forest?  
A/ Individual person (land owner) -----  
B/ Communities around the area -----
7. If it is used by individual does the previous land holder or the person who originally planted the tree have any remaining rights?  
A/ Yes----- B/ No-----
8. Does the peasant association get benefit from the forest products?  
A/ Yes----- B/ No-----  
If yes in what proportion they get from the harvesting of forest products?-----  
-----  
-----
9. Are the members of peasant associations and the enterprise officials have good relation between them?  
A/ Yes----- B/ No-----

If no, what is behind them?-----  
-----  
-----

10. Are forests around your peasant association encroached?

A. Yes----- B/ No-----

If yes, what is the solution for encroachment of the forest area? -----  
-----  
-----

11. As we know, the strategies of guarding forest are conventional (with forest guards).

Is this strategy is applicable?

A/ Yes----- B/ No-----

If no, what is the solution for encroachment of the forest area? -----  
-----  
-----

**Questionnaire, for urban fuel wood carriers.**

1. What is your principal occupation? -----
2. How many people are parts of your householders? -----
3. Is there any one from your householders who assists you in the process?  
Conducting to the sell of fuel wood to the market?  
Name the family members;  
A/ for collection -----  
B/ for transportation -----  
C/ for sell -----
4. Did you buy the fuel wood that you are brining to the market today?  
A/ Yes----- B/ No -----
5. If you bought how much did you paid? -----
6. From where do you get the fuel wood products?  
A/ from the state forest area -----  
B/ from community forest -----
7. What is the price of fuel wood you sell per day? -----  
-----
8. If you buy the fuel wood what is your profit per day?  
A/ more than ten birr -----  
B/less than ten birr -----
12. What percentage of your household's annual income from the sell of fuel wood  
Products? \_\_\_\_\_%
13. How is the relationship between you and the forest guards?  
A/ good----- B/ bad-----
12. Are you paid money for forest guards for collect fuel wood including branches  
and leafs?  
A/ Yes----- B/ No-----
13. If yes how much for a unit of fuel wood? -----.

## **Oromia North Shewa Zone Bereh District Court**

File No. 06659

Date:- 14/11/2007

Judge:- Erena Chala

Plaintiff:- prosecutor –Elsabet –present

Defendants:- 1. Bushura Bekele –present

2. Niguse Hailu “

3.Chuchu Megersa “

We had examined the file and give decision

### Decision

The plaintiff, the prosecutor, has accused the defendants, by her written, un numbered letter, dated 9/4/2007 stating that they had violating criminal law No. 32 (1) “A” and forestry proclamation No. 94/1994, Article 16 (1) by cutting government woods in the Finfinne Forest Development and Marketing Enterprise found in Bereh District, Dabe Godo Muda Kebele at place called Godo Kella, on 12/10/2006 at around 6:00 AM tying the woods together moving and individually carrying the bundles and caught by the forest guards.

Accordingly the defendants were caused to be appeared, the prosecutor’s charge was given them, read on the court’s session: they stated that they do not have legal objection on the charge, they were moving carrying their own woods, did not cut the forest wood and litigated saying that it is not a fault.

The prosecutor said that she shall cause their witnesses’ hearing. The prosecutor’s witnesses were present and gave their words of oath.

The prosecutor’s 1<sup>st</sup> witness is called Retta Tullu, stated that on 16/10/2006, at around 6:00 AM they cut eucalyptus tree belonging to Finfinne Forest Development and Marketing Enterprise forest found in Bereh District, in the Godo Muda Kebele, and testified saying that we caught them red handed and presented them to the law. For the cross question, too he replied saying that you, the defendants, were carrying fresh cut woods.

The prosecutor's 2<sup>nd</sup> witness is called Beshada Anbessie; had testified in relation to the first witness's testimony.

For the cross question rose, he replied saying they caught them while they were moving carrying woods.

The prosecutor said that the witnessing is sufficient for them.

The court had said that the defendants defend themselves.

The defendants; witnesses were appeared and gave their words of oath to truthfully testify.

The defendants, when they had hinted in their favor, on the main idea had said, "They knew that the eucalyptus woods, that we were caught with were belonging to our parents" The 1<sup>st</sup> defendant's witness is called Tilaye Bekele and he testified saying that the eucalyptus woods that the 1<sup>st</sup> defendant caught with were not governments, but his father's. For the cross question rose, hereon, he replied saying that he does not know with how many woods he was caught carrying. Additionally, he said that the defendant had cut his father's woods on 15/10/2006 and caught with on 16/10/2006.

The 1<sup>st</sup> defendant's 2<sup>nd</sup> defense witness is called Chala Hailu and he had similarly testified as the 1<sup>st</sup> witness. For the cross question rose, he said the 1<sup>st</sup> defendant cut the woods on 30/09/2006 and caught with on 16/10/2006. Additionally, he had stated he does not know whether he cut or not government's woods on 16/10/2006.

The 2<sup>nd</sup> defendant's 1<sup>st</sup> defense witness is called Alemu Tola, had stated that this defendant cut his father's wood on 30/09/2006 and caught with on 16/10/2006, which was not belonging to government; for the cross question rose he also replied saying he does not know whether the defendant had cut or not government's wood on 16/10/2006.

The 2<sup>nd</sup> defendant 2<sup>nd</sup> defense witness is called Kuba Hailu, he had testified as the 1<sup>st</sup> defense witness.

The 3<sup>rd</sup> defendant 1<sup>st</sup> defense witness is called Hirpe A/Jifar; she testified saying he cut eucalyptus woods for himself that belongs to me and my husband on 13/09/2006, and was caught with on 16/10/2006, which was not belonging to the government. For the

cross question rose, she had replied saying that she does not know, except he was taking the woods on 16/10/2006, why he was caught.

The 3<sup>rd</sup> defendant's 2<sup>nd</sup> defense witness is called Tarto Negewo and he also testified according to the 3<sup>rd</sup> defendant's 1<sup>st</sup> defense witness. For the cross question rose, he replied saying that he does not know whether the defendant had cut the governments after 13/09/2006.

Accordingly, the left right witnessing had been completed. The prosecutor had stated that the legal witnesses had properly testified against the defendants; and even though the appeared defense witnesses had, in an organized system, tried to defend, and they could not defend the defendants, she requested for passing offender decision on them. The defendants, on their part, said that their defense witnesses had defended them and must be released freely.

We too, as we had examined this file, the prosecutor's witnesses had testified against the defendants and the defense witnesses' being appeared in an organized system, had tried to defend. However, the woods that the defendants had been held with was fresh cut, but even some of them had said it had been more than one month before. There are some who also had said it had 20 days since cutting.

On the other part, the defendants are of different fathers, yet all of them said they cut their father's. This shows their discussion and it can not be possible to say that they did not accomplish it. The appeared defense witnesses had given their replies on the cross question in a manner that contradicts their witnessing. Hence, they did not defend them. Therefore, as these defendants had been collectively found violated Criminal Law No. 32 (1) (A) and forestry proclamation No. 94/1994 Article 16 (1), by cutting government woods, we have passed offender decision on them according to criminal procedural law No. 149(1).

### **The Prosecutor's Idea On Penalty**

The prosecutor had said that even if the defendants have not records, let necessary penalty be given them to make them give considerations for forestry and natural resources protection on our behalf.

### **The Defendants' Idea On Penalty**

1. The 1<sup>st</sup> defendant stated that he has no father and his mother is also in capable and requested for a light penalty.
2. The 2<sup>nd</sup> defendant stated that he is unemployed and requested for a light penalty as he is a daily laborer.
3. The 3<sup>rd</sup> defendant stated that he is managing a family with his daily labor and had requested for a light penalty.

### **Penalty**

These defendants had been found violating Criminal Law No. 32(1) (A) and the issued forest protection proclamation No. 94/1994 Article 16(1) by cutting eucalyptus tree. Their act can cause an imprisonment of up to 02 (two) years or up to birr 5,000.00 penalty. However, considering their knowledge, their family and living conditions and believing that they shall get lessons hereon, we have decided, lighting the penalty, that each of them have 2 (two) months' imprisonment or penalty of birr 300.00, closed the file and returned it to the archive.

### **Order**

1. Appealing right is legally reserved;
2. If the defendants individually cannot deposit birr 300.00 to government's cash box, let a warranty letter be written to the Kimbibit District prison house materialize 02(two) month's imprisonment on them.
3. Guarantee has been lifted; let any property held from the defendants be given them back.

Signed

14/11/2007

### **Additional order**

Let the woods captured from the defendants be handed to the government.

Signed

20/11/2007



## **Statement of declaration**

I hereby declare that the paper is my original work, and take full responsibility for any failure to observe the conventional rules of citation.

Name: - Dandena G/Michael

Signature: - \_\_\_\_\_