



**Jimma University**

**College of Law and Governance**

**School of Law**

**Freedom from Hunger: The Right to Adequate Food of Pastoralist Communities  
in Drought Situations with Particular Reference to Borana Oromo, Southern  
Ethiopia**

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**A Thesis Submitted to the School of Law in Partial Fulfillment of the Requirement for a  
Masters of Law in Human Rights and Criminal Laws (LLM)**

**Advisor: Mizanie Abate (PhD)**

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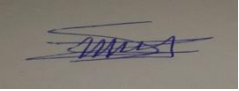
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This is to certify that the thesis conducted by Obsitu Duba, entitled 'Freedom from Hunger: The Right to Adequate Food of Pastoralist Communities in Drought Situations with Particular Reference to Borana Oromo, Southern Ethiopia' and submitted in partial fulfillment of the requirements for the degree of Masters of Law in Human Rights and Criminal Law (LLM). Accordingly, the thesis complies with the regulations of the university and meets the accepted standards concerning originality and quality.

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## Declaration

I hereby declare that the thesis submitted by me in partial fulfillment of the requirements for the degree of Masters of Law in Human Rights and Criminal Laws (LLM) entitled 'Freedom from Hunger: The Right to Adequate Food of Pastoralist Communities in Drought Situations with Particular Reference to Borana Oromo, Southern Ethiopia' represents my own work and has not been previously submitted to this or other institutions for any degree, diploma or other qualification and all sources used for the thesis have been duly acknowledged.

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A handwritten signature in black ink, appearing to be 'Obsitu Duba', written over a horizontal line.

Place: Jimma University, Ethiopia

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## **Acknowledgment**

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### **Dedication**

This thesis is dedicated to the pastoralist communities in drought situations, who lost their livestock, which is a symbol of their pride, and experienced significant deterioration of lives, livelihoods, and humanitarian crises. It is also dedicated to those who lost their dignity and life due to drought-induced hunger.

### **Lists of Abbreviations and Acronyms**

ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on Rights and Welfare of Child
ACtHPR	African Court on Human and Peoples' Rights
ADLI	Agricultural Development-Led Industrialization
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social, and Cultural Rights
CPR	Civil and Political Rights
CRC	Convention on the Rights of Child
CRPD	Convention on the Right of Persons with Disabilities
CSB	Corn Soya Blend
DRMC	Disaster Risk Management Commission
ECtHR	European Court of Human Rights
EHRC	Ethiopian Human Rights Commission
ESCR	Economic Social and Cultural rights
FAO	Food and Agriculture Organization
FDRE	Federal Democratic Republic of Ethiopia
FEWS NET	Famine Early Warning Systems Network
FGD	Focus Group Discussion
GTP	Growth and Transformation Plan
HoF	House of Federations
HPR	The House of Peoples' Representatives
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights

ICESCR	International Covenant on Economic, Social, and Cultural Rights
IDP	Internally Displaced Persons
NGO	Non-governmental Organization
OHCHR	Office of the High Commissioner for Human Rights
PSNP	Productive Safety Net Program
SERAC	Social and Economic Rights Action Center
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNGA	United Nations General Assembly
UNICEF	The United Nations International Children's Emergency Fund
VCLT	Vienna Convention on the Law of Treaties

## Abstract

*The right to adequate food, as recognized under various human rights instruments, is inherently connected to human dignity and is indispensable for the enjoyment of other human rights. This right is primarily about feeding oneself with dignity. However, in an exceptional scenario such as a disaster or armed conflict that affects the ability of an individual to feed themselves with dignity, the government bears the obligation to provide food directly. In the study area, due to the current drought, which resulted in their displacement, the pastoralist communities are unable to feed themselves with dignity. Thus, the thesis assesses the extent to which the right to adequate food is realized in the study area. It assesses whether and to what degree the government has discharged its obligation to realize the right to adequate food for pastoralist communities in drought situations. To achieve this objective, the study has employed a blend of doctrinal and empirical legal research methodologies using a qualitative research design. The finding reveals that food is not available in the study area. Even the limited emergency food aid provided to the IDPs does not fulfill the core contents of the right to adequate food availability, adequacy, and accessibility. Also, there is a prevalence of malnutrition and hunger crises in the selected IDPs camp. The absence of early warning, failure to declare a state of emergency, and lack of prioritization in addressing emergencies are among the factors found to be affecting the realization of the right to adequate food in the study area. The research concludes that in the study area, recurring droughts are the consequence of natural disasters, whereas hunger resulting from drought is a manifestation of the state's failure to fulfill at the very least, the minimum core obligation to ensure the right to be free from hunger. The thesis recommends, among other things, declaring a state of emergency, adopting a human rights approach to emergencies, and prioritizing resources to ensure the right to adequate food.*

**Keywords:** *Freedom from Hunger, Right to Adequate Food, Drought, Borana Pastoralist*

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## CHAPTER ONE

### 1. INTRODUCTION

#### 1.1. BACKGROUND OF THE STUDY

The right to adequate food is a fundamental human right that is intrinsically connected to other human rights including the right to life. It is at the heart of promoting persons' essential dignity and well-being. The recognition and promotion of the right to adequate food at the international level started with the adoption of the UDHR. Accordingly, the right to food was first recognized in UDHR, in the broader context of the right to an adequate standard of living. Article 25 of UDHR provides that “everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family including food, clothing, housing, and medical care...”<sup>1</sup> This article addresses the broader context of the right to an adequate standard of living, with food recognized as one essential component. By specifically recognizing the right to an adequate standard of living including food, the UDHR has laid the basis for subsequent attempts to uphold and fulfill this right through international and regional human rights instruments.

The right to adequate food later got its binding nature under Article 11 of the ICESCR which stipulates that “State parties to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and, housing, and to the continuous improvement of living conditions.”<sup>2</sup> Besides, the ICESCR recognizes the fundamental right of everyone to be free from hunger and obliges the states to take measures specified under this provision, individually and through international cooperation.<sup>3</sup> Thus, in addition to its binding nature, the inclusion of the right to be free from hunger is another advancement to the right to adequate food under the ICESCR, the right to be free from hunger is the only right recognized as a fundamental under the covenant. Some argue that the recognition of freedom from hunger as a fundamental right comes from the primacy accorded to the right to life.<sup>4</sup> Hence, the right to adequate food as it exists today encompasses the fundamental right to be free from hunger but not limited to it.

The right to adequate food is also implicitly recognized by the ICCPR in the provision such as the right to life. According to the Committee on Civil and Political Rights, the right to life requires the state not only to refrain from killing or just protecting the physical security of the

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<sup>1</sup> Universal Declaration of Human Rights 1948, (UDHR) art 25.

<sup>2</sup> International Covenant on Economic, Social and Cultural Rights 1966, (ICESCR) art 11.

<sup>3</sup> Ibid

<sup>4</sup> Christophe Golay, *The Right to Food and Access to Justice: Examples at the national, regional and international levels* (Food and Agriculture Organization of the United Nations, Rome, 2009) 13.

individual but also to adopt positive measures that aim at eliminating malnutrition.<sup>5</sup> Similarly, General Comment Number 12 of the ESCR Committee states that: “The right to adequate food is indispensably linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights.”<sup>6</sup> The International Bill of Rights consists of the ICESCR, ICCPR, and UDHR. At this juncture, it is worth mentioning that, although initially non-binding, recognition of the right to food under the UDHR has evolved through time. Currently, the rights enshrined in the UDHR, including the right to food, have acquired the status of Customary International Law. They are now considered an integral part of the general principles of law recognized by civilized nations.<sup>7</sup>

In addition to its recognition in the International Bill of Human Rights today, the human right to adequate food is spelled out in various international human rights instruments. To mention some: Article 12 (2) CEDAW which aims at eliminating discrimination against women in the field of healthcare obliges state parties to ensure women have among other things, adequate nutrition during pregnancy and lactation.<sup>8</sup> Article 27 CRC recognizes the right of every child to an adequate standard of living and requires the state to combat disease and malnutrition through inter-alia the application of readily available technology and the provision of adequate nutritious foods.<sup>9</sup> Similarly, Article 28 of CRPD requires state parties to ensure that persons with disabilities and their families have access to food, shelter clothing, and drinking water.<sup>10</sup> In addition, the right to adequate food is enshrined in various international human rights instruments, which will be discussed in detail in the subsequent chapters.

At the regional level though the right to adequate food is not explicitly recognized under the African Charter on Human and People’s Rights, the African Commission on Human and People’s right in the *SERAC v Nigeria* case has interpreted the right to adequate food as implicit in the Charter, in the provisions such as, right to life, right to health and the right to economic social and cultural development.<sup>11</sup> Other regional human rights instruments have dealt with the right to adequate food in various context. For instance, the African Charter on

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<sup>5</sup> UN Human Rights Committee, 'General Comment No. 36' on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life (3 September 2019) UN Doc CCPR/C/GC/36 (HR Comm.) (General Comment 36) par 26

<sup>6</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant) (12 May 1999) E/C.12/1999/5, (General Comment 12) par 4.

<sup>7</sup> Olivier De Shutter International Human Rights Law: Cases, Materials, Commentary (2010) 16.

<sup>8</sup> Convention on the Elimination of All Forms of Discrimination against Women 1979, art 12.

<sup>9</sup> Convention on the Rights of the Child 1989, art 27.

<sup>10</sup> Convention on the Rights of Persons with Disabilities 2006, art 28.

<sup>11</sup> Social and Economic Rights Action Centre (SERAC) and another v Nigeria (2001), AHRLR 60, (SERAC v Nigeria case) par 64.

the Rights and Welfare of Child addressed the right to adequate food in the context of the right to health. Article 14 of the charter states every child shall have the right to enjoy the best attainable state of physical, mental, and spiritual health, and obliges state parties to ensure the provision of adequate nutrition and combat malnutrition.<sup>12</sup>

The protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa also recognizes the right to adequate food. According to Article 20(1) of the protocol, people with disabilities have the right to an adequate standard of living, which includes access to adequate food, safe drinking water, housing, sanitation, and clothing to improve their living conditions and ensure social protection.<sup>13</sup> Similarly, the protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) addresses the right to adequate food. It among other things requires state parties to ensure that women have the right to nutritious and adequate food.<sup>14</sup> Thus, the right to adequate food at the regional level is recognized in those human rights instruments intended to protect the rights of a specific group of persons.

The right to adequate food is not only recognized by various international and regional human rights instruments but has also attained a status of substantive, well-built, and comprehensive customary norms.<sup>15</sup> It holds the status of *jus cogens* because some rights such as the right to due process of law, food, shelter, and other basic needs which are not explicitly mentioned in non-derogable provisions of multilateral treaties or other sources have been proposed as having the status of *jus cogens* due to their necessity in ensuring the protection of other *jus cogens* norms. These additional norms are referred to as derivative *jus cogens*.<sup>16</sup> The classification of the right to adequate food as a norm of derivative *jus cogens* stems from its indispensability in protecting the right to life which is non-derogable.<sup>17</sup> Therefore, one can safely conclude that the protection and promotion of the right to adequate food is now the responsibility of the international community due to this special nature of the right.

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<sup>12</sup> African Charter on the Rights and Welfare of the Child 1990, art 14 (2) (c) (d).

<sup>13</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa 2018, (African Disability Rights Protocol) art 20.

<sup>14</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2005 (Maputo Protocol) art 15.

<sup>15</sup> Laura Niada, 'Hunger and International Law: The Far-Reaching Scope of the Human Right to Food' (2006) Connecticut Journal of International Law 22(1) 131-20.

<sup>16</sup> Francisco Forrest Martin, Stephen J. Schnably, Richard Wilson, Jonathan Simon, and Mark Tushnet, International Human Rights, and Humanitarian Law: Treaties, Cases, and Analysis (Cambridge University Press, 2006), 36.

<sup>17</sup> Ibid

Regarding the definition and core contents of the right to adequate food, although the right is recognized in the context of the right to an adequate standard of living, various treaty bodies and regional human rights courts have defined the right to adequate food. For instance, the committee on the ESCR treaty body mandated to monitor the interpretation of ICESCR in its General Comment Number 12 has provided the definition and core content of the right to adequate food along with the corresponding state obligation. According to this General Comment, “The right to adequate food is realized when every man, woman, and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”<sup>18</sup> As per this definition, the right to adequate food is not just having any food, rather it is the ability of a person to have economic and physical access to adequate food. This definition in turn reflects the core contents of the right to adequate food.

The first core content of the right to food is adequacy. The committee defines adequacy as "food in quantity and quality sufficient to satisfy the dietary needs of the individual free from adverse substances and acceptable within a given culture."<sup>19</sup> The second core content of the right to adequate food is availability. Availability refers to the ability of individuals to obtain food either through direct access to productive land and other natural resources or through well-functioning market systems that can transport food from its point of production to the place where it is needed.<sup>20</sup> The third core content of the right to adequate food is accessibility which consists of both physical and economic accessibility to food. Economic accessibility requires that the cost of obtaining adequate food should not compromise the attainment and satisfaction of other basic needs. Physical accessibility, on the other hand, concerns the accessibility of adequate food to everyone.<sup>21</sup> These three elements are the core contents of the right to adequate food which needs to be fulfilled for the proper and full enjoyment of the right.

The above-mentioned core contents being a concrete benchmark to evaluate the fulfillment of the right, right to adequate food impose three layers of obligation on the state.<sup>22</sup> The first obligation is the obligation to respect: this obligation requires state parties not to take any measures that would prevent individuals from enjoying their right to adequate food. The second layer of obligation is the obligation to protect: compliance with this obligation requires state parties to take measures to ensure that enterprises or individuals do not deprive

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<sup>18</sup> General Comment 12 (n 6) par 6.

<sup>19</sup> Ibid par 8.

<sup>20</sup> Ibid par 12.

<sup>21</sup> Ibid par 13

<sup>22</sup> Ibid Para 15

individuals or communities of their access to adequate food. The third type of obligation is the obligation to provide: this obligation places a dual duty on the state. The first one is the obligation to facilitate, which requires the state to proactively engage in activities that strengthen people's access to resources and means that guarantee their livelihood, including food security. The second one is the obligation to provide, which requires the state to directly provide sufficient food and other supplementary resources when individuals or groups are unable to feed themselves due to circumstances beyond their control, such as natural disasters or armed conflicts.

At the national level, Ethiopia has ratified all the above-mentioned human rights instruments. As per article 9 (4) of the FDRE constitution, all international agreements ratified by Ethiopia are an integral part of the law of the land.<sup>23</sup> Article 13(2) of the same constitution also dictates the fundamental rights and freedoms (some of which are directly related to the right to food), specified under chapter three of the constitution to be interpreted in a manner conforming to the international agreements ratified by Ethiopia.<sup>24</sup> The constitution has also incorporated economic, social, and cultural rights under Article 41. Moreover, other rights that are directly associated with the right to adequate food such as the right to life, ownership of property, and development are expressly recognized in the Constitution.<sup>25</sup> Specifically, Article 90 (1) of the FDRE Constitution stipulates that “To the extent the country’s resource permits, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food, and social security.” Article 89 (3) of the constitution dealing with national policy objectives obliges the government to take measures to avert any natural and man-made disaster and to provide timely assistance to the victims in the event of a disaster.<sup>26</sup> The country has also formulated various policies that aim at addressing food security which are significant for the realization of the right to adequate food.

Despite the ratification of all these human rights instruments and the existence of the human rights guarantees under its constitution, in Ethiopia food insecurity due to poverty and deprivation of the human right to adequate food is common. Especially, drought-induced hunger and famine have been periodic and frequent in the country.<sup>27</sup> Even recently, Ethiopia has been in a prolonged drought since the end of 2020 as a result of five consecutive rainy

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<sup>23</sup> Constitution of the Federal Democratic Republic of Ethiopia 1995, (FDRE Constitution) art 9 (4).

<sup>24</sup> Ibid art 13 (2).

<sup>25</sup> Ibid art 41.

<sup>26</sup> Ibid art 90 and 89.

<sup>27</sup> Yeshewas Ebabu, 'The Human Right to Food and the Post-1991 Ethiopian State's Obligation: A Case Study on Simada Woreda and Gulele Sub-city' (November 2019, unpublished research paper, Center for Human Rights, College of Law and Governance Studies, Addis Ababa University), 11.

seasons that were unsuccessful. The situation only became worse, with over 70% of agricultural production reported lost, 267,000 livestock deaths reported, and over three million people experiencing water and food scarcity.<sup>28</sup> The study area, the Borana zone of Oromia region is one of the drought-stricken localities in the country. According to the drought monitoring report of the EHRC, it has been verified that in Borana Zone, the drought has resulted in the death of cattle and the depletion of their productivity, causing an inability to sell the cattle and purchase an adequate supply of grain. Consequently, the community residing in the affected area has been severely affected by food and water scarcity. Furthermore, the data reveals a distressing increase in the loss of lives, particularly among vulnerable groups such as children, the elderly, and individuals with various illnesses.<sup>29</sup>

Some studies show that the hunger caused by drought in 1973 and 1984 transitioned into famine not because of the unavailability of food in the country but because the government failed to provide food aid to the starved people and concealed the situation from international donors.<sup>30</sup> Hence, the main objective of this study, assessing the degree to which the state has discharged its obligation towards the realization of the right to adequate food of pastoralist communities in drought situations with particular reference to Borana Oromo, stems from the nature of state obligations towards the realization of the right to adequate food. Particularly, the obligation to directly provide food in emergencies. Because as per international human rights law, in the event of a natural or man-made disaster, such as drought states should provide food assistance to those in need and may request international assistance if their resources are insufficient.<sup>31</sup> However, the provision of any food items may not relieve the state from its obligation because the right to food is not about charity but about ensuring that all people have the capacity to feed themselves in dignity.<sup>32</sup> Thus, the assessment of the

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<sup>28</sup> World Vision, East Africa Hunger Emergency Response Situation report (2022) #10 available at [https://www.bing.com/ck/a?!&pp=f1fde4ac6bfb3695JmltdHM9MTY4ODg2MDgwMCZpZ3VpZD0wNTRjNWFhOC1mOTg0LTZjM2UtMzNjZC00ODdkZjg0MjZkZGUmaW5zaWQ9NTI1OQ&ptn=3&hsh=3&fclid=054c5aa8-f984-6c3e-33cd-487df8426dde&psq=World+Vision%2c+East+Africa+Hunger+Emergency+Response+Situation+report+\(2022\)+%2310&u=a1aHR0cHM6Ly93d3cud3ZpLm9yZy9wdWJsaWNhdGlvbnMvcmVwb3J0L2h1bmdlci1jcmJzaXMyZWFzdC1hZnJpY2EtaHVuZ2VyLXJlc3BvbnNlXNpdHVhdGlvbi1yZXBvcnQtamFudWFyeS0yMDIy&ntb=1](https://www.bing.com/ck/a?!&pp=f1fde4ac6bfb3695JmltdHM9MTY4ODg2MDgwMCZpZ3VpZD0wNTRjNWFhOC1mOTg0LTZjM2UtMzNjZC00ODdkZjg0MjZkZGUmaW5zaWQ9NTI1OQ&ptn=3&hsh=3&fclid=054c5aa8-f984-6c3e-33cd-487df8426dde&psq=World+Vision%2c+East+Africa+Hunger+Emergency+Response+Situation+report+(2022)+%2310&u=a1aHR0cHM6Ly93d3cud3ZpLm9yZy9wdWJsaWNhdGlvbnMvcmVwb3J0L2h1bmdlci1jcmJzaXMyZWFzdC1hZnJpY2EtaHVuZ2VyLXJlc3BvbnNlXNpdHVhdGlvbi1yZXBvcnQtamFudWFyeS0yMDIy&ntb=1). (Last accessed on 2/10/2023).

<sup>29</sup> Ethiopian Human Rights Commission, Oromia and Somali Region Drought Monitoring Report, 2022, (translated from Amharic) (EHRC Drought Monitoring Report hereafter) 13

<sup>30</sup> Husen Tura, 'Achieving Zero Hunger: Implementing a Human Rights Approach to Food Security in Ethiopia' (2019) *Third World Quarterly* 40(9) 1613-1633.

<sup>31</sup> Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, Adopted by the 127th Session of the FAO Council, November 2004, Food and Agriculture Organization of the United Nations (Rome, 2005) (Voluntary Guidelines on the realization of the right to adequate food) par 16.6.

<sup>32</sup> Jean Ziegler, Christophe Golay, Claire Mahon, and Sally-Anne Way, *The Fight for the Right to Food: Lessons Learned* (Palgrave Macmillan 2011) 15.

normative content of the right to adequate food and the compliance with the obligation to ensure freedom from hunger is equally important.

## 1.2. Statement of the Problem

The human right to adequate food protects the right of all human beings to live in dignity, free from hunger, food insecurity, and malnutrition.<sup>33</sup> As well said by Attilio “Drought can affect any country while starvation affects only certain countries.”<sup>34</sup> So hunger and the absence of adequate food in drought situations have more human rights implications than mere climate change. This is mainly because each state has a primary responsibility to take care of the victims of natural or man-made disasters occurring in its territory. Besides, the right to adequate food like any other human right imposes three levels of obligation on the state. Particularly, the state is obliged to directly provide adequate food whenever an individual or group is unable to enjoy their right to adequate food for reasons beyond their control. This obligation applies to persons who are victims of natural disasters.<sup>35</sup> Moreover, immediate and urgent step is needed to ensure the fundamental right to be free from hunger and malnutrition.<sup>36</sup> Therefore, in addition to its obligation to ensure the realization of the right to adequate food as expressed in the ratification of international human rights instruments, the state has the primary responsibility to take care of victims of natural or man-made disasters such as drought.

As mentioned in the background of the study, recently, in one of the worst droughts affected areas of the Oromia Region, the Borana Zone (the study area) due to the prolonged absence of rain for five consecutive seasons, the pastoralist community has lost thousands of livestock on which they entirely depend for living. According to the drought monitoring report released by the EHRC, even before the current drought, an epidemic of locust swarms occurred in the zone and caused damage to the fertile areas.<sup>37</sup> Consequently, the community residing in the affected area has been severely affected by food and water scarcity. Furthermore, the data reveals a distressing increase in the loss of lives, particularly among vulnerable groups such as children, the elderly, and individuals with various illnesses.<sup>38</sup> Assessing the degree to which the state has discharged its obligation of ensuring freedom from hunger and realizing the right

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<sup>33</sup> Bibhut Mahakul, 'The Right to Food as Human Rights: Some Thematic Reflection with Reference to India' (2014) *Social Action* 64(1) 22-33

<sup>34</sup> Alexander Attilio, *Understanding famine in Ethiopia: Poverty, politics and human rights* (2008) political perspectives Vol. 2 (1) 2.

<sup>35</sup> General Comment No. 12 (n 6) par 15.

<sup>36</sup> George Kent 'The human right to food and dignity' (2010), *Hum. Rts.*, 37, 3. See also General Comment 36 (n 5) par 1, and General Comment No. 12 (n 6) par 14,17, 21.

<sup>37</sup> EHRC Drought Monitoring Report (n 29) 10.

<sup>38</sup> *Ibid* 13.

to adequate food for pastoralist communities in drought situations requires standard academic research. However, as far as my reading is concerned, no research has been conducted on this topic. Therefore, this study assess the status of the right to adequate food and degree to which the state has discharged its responsibility of realizing the right to adequate food for pastoralist communities in drought situations with particular reference to Borana Oromo, Southern Ethiopia

### **1.3. Research Objectives**

#### **1.3.1. General Objective**

The general objective of the study is to assess the degree to which the state has discharged its responsibility of realizing the right to adequate food for pastoralist communities in drought situations with particular reference to Borana Oromo, Southern Ethiopia.

#### **1.3.2. Specific Objectives**

The specific objectives are to:

- 1) Clarify the duty of the state to realize the right to adequate food;
- 2) Explore the extent to which the right to adequate food is realized in the study area;
- 3) Assess whether and the degree to which the government is effectively discharging its obligations towards the realization of the right to adequate food in the study area;
- 4) Identify the factors affecting the realization of the human right to adequate food in the study area;
- 5) Put forward recommendations

### **1.4. Research Questions**

- 1) What is the nature of state obligation towards the realization of the right to adequate food?
- 2) What does the realization of the human right to adequate food look like in the study area?
- 3) Is the state effectively discharging its obligations to realize the right to adequate food in the study area?
- 4) What factors are affecting the realization of the human right to adequate food in the study area?
- 5) What should be done for the realization of the right to adequate food in drought situations in the study area?

### **1.5. Significance of the Study**

This study is significant from the following points of view: It will provide a comprehensive understanding of the nature and normative contents of the right to adequate food and the nature of state obligation towards its realization. It will contribute to the limited literature on

the right to adequate food, particularly in emergency situations such as drought. It will give direction to the new generation and specifically the human rights students, researchers, and practitioners to work on the area as well as to make public debate.

The finding of the study will alert the government to discharge its obligation towards the realization of the right to adequate food for the pastoralist communities in drought situations in compliance with international human rights instruments and standards. Therefore, the study will provide insight into the realization of the human right to adequate food and the fundamental right to be free from hunger. Moreover, the findings of the study will be used by non-governmental organizations engaged in humanitarian intervention such as the provision of food in drought situations to follow a human rights approach. It can be used by legislatures and policymakers to draw lessons and formulate laws and policies that promote the right to adequate food for pastoralist communities in drought situations.

### **1.6. Literature Review**

Although some studies have been conducted on the right to adequate food, they are not directly related to freedom from hunger and the right to adequate food of pastoralist communities in drought situations. The following are some of the literature conducted on the right to adequate food in different contexts.

One of the recent researches on the right to food was conducted by Ebabu Y, entitled “The Human Right to Food and the Post 1991 Ethiopian State Obligation: A Case Study on Simada Woreda and Gulele Sub-city.”<sup>39</sup>The research investigates the state of realization of the right food in varying socio-economic contexts by selecting two study areas Simada Woreda and Gulele Sub-city. The finding of this research reveals that the existing national legislations and policies of Ethiopia are not adequate to address the realization of the human right to food in the case study area. The study also shows that the right to food is a mass violated right in the case study area and the government is not prioritizing its policy in both rural and urban contexts. This research differs from the one at hand as it focuses on the state compliance with its human rights obligation with specific reference to two study areas Simada Woreda and Gulele Sub-city.

The other research on the right to food is conducted by Getachew H. entitled “The Right to Food and School Feeding Program in Addis Ababa: Experience from Tshai Chora and

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<sup>39</sup> Yeshiwas Ebabu, (n 27).

Dagmawi Minilk Kindergarten and Primary Schools.”<sup>40</sup> This study examines the contribution of school feeding to the realization of the right to adequate food with specific reference to children as a vulnerable group. The finding of the study indicates that the school feeding program has somehow helped the children to alleviate the lack of food they used to face at school. The research also exhibits that the laws and policies on the right to food and school feeding programs in Ethiopia are inadequate. Despite its contribution to the subject matter, the study is limited to the experiences of some school feeding programs in Addis Ababa and the right to food of school children as a vulnerable group. Thus, it differs from the research at hand both in scope and content.

There is also a journal article written by Tura H, entitled, “Linking Land Rights and the Right to Adequate Food in Ethiopia: Normative and Implementational Gap.”<sup>41</sup> This article focuses on the link between land rights and the right to adequate food. The finding exhibits that there is a normative and implementation gap in Ethiopia’s land law which impacted the enjoyment of the human right to adequate food. Thus, the right to food is dealt with in this article in the context of land rights which demonstrates its disparity from the research at hand. The same author has also addressed the right to food in another article entitled “Land Right, Urban Agriculture and the Right to Food: The Case of Addis Ababa.”<sup>42</sup> This article analyses laws and policies governing the right to food and urban land by assessing the responsiveness of the new land expropriation law to the livelihood and food security of pre-urban smallholders. The study concluded that farmers displaced as a result of Addis Ababa’s expansion were exposed to various economic and social problems including food insecurity. Therefore, the focus of this study is on the right to food of pre-urban peasants who are affected as a result of the expansion of cities and towns different from the research at hand which deals with the right to adequate food of pastoralist communities in drought situations.

Similarly, there is a journal article written by Getaneh S, entitled “Land-grabbing and the Right to Adequate Food in Ethiopia.”<sup>43</sup> This article deals with the negative consequence of land grabbing on the right to adequate food. The finding reveals that the government has displaced communities and given their land to foreign lessees without compensation which

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<sup>40</sup> Helen Getachew, 'The Right to Food and School Feeding Programs in Addis Ababa: Experiences from Tsehai Chora and Dagmawi Minelik Kindergarten & Primary Schools' (June 2014, unpublished research paper, School of Graduate Studies, Center for Human Rights, Addis Ababa University).

<sup>41</sup> Husen Tura, 'Linking Land Rights and the Right to Adequate Food in Ethiopia: Normative and Implementation Gaps' (2017) *Nordic Journal of Human Rights* 35(2) 85-105.

<sup>42</sup> Husen Tura, 'Land Rights, Urban Agriculture and the Right to Food: The Case of Addis Ababa' (2020) *Ethiopian Civil and Commercial Law Series* 10.

<sup>43</sup> Samrawit Getaneh Damtew, 'Land-grabbing and the right to adequate food in Ethiopia' (2019) *African Human Rights Law Journal* 19(1) 219-245.

affected the enjoyment of their human right to adequate food. However, different from the literature discussed above, this study addresses the pastoralist community as the mainly affected community by land grabbing but it does not deal with the right to adequate food of pastoralist communities in drought situations. Therefore, my study attempts to fill the existing research gaps and add new knowledge by assessing the status of the right to adequate food of pastoralist communities in drought situations and the degree to which the state has discharged its obligation towards its realization in the study area.

## **1.7. Research Methodology**

### **1.7.1. Research Approach and Design**

To achieve the above-stated objectives, the study employed a blend of doctrinal and Empirical legal research methodology. Empirical legal research involves the study of laws, legal processes, and legal phenomena using social research methods such as interviews, observation, and questionnaires.<sup>44</sup> As the first step prior to any empirical work is to check whether any perceived problems are the result of poor doctrine or lack of compliance with the doctrine,<sup>45</sup> the research has also used doctrinal legal research to analyze statutory provisions and case laws. The justification for the selection of the research methodology is that the understanding of the law could be greatly enhanced if empirical and doctrinal methods could be brought together.<sup>46</sup>

The research design is the qualitative case study research design. This design is preferred to accomplish the goal of the study as qualitative research helps to better comprehend social phenomena by using a systematic scientific approach to develop a comprehensive, mostly narrative description.<sup>47</sup> This research design focuses on interpreting facts through text, rather than relying on empirical calculations and statistical analysis. The research employed a cross-sectional qualitative case study design as its methodology. This design allows the researcher to collect data at a specific moment in time and explore participants' inner experiences and the formation of meanings. In case study research, the researcher focuses on one or more specific systems (cases) over time, gathering detailed information from various sources such as observations, interviews, documents, and reports. This approach leads to the creation of a case description and the identification of case-based themes. Furthermore, case study research

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<sup>44</sup> Dawn Watkins and Mandy Burton (eds), *Research Methods in Law* (Routledge, 2017) pp 55.

<sup>45</sup> *Ibid* 8.

<sup>46</sup> Gareth Davies, 'The Relationship between Empirical Legal Studies and Doctrinal Legal Research' (2020) *Erasmus L. Rev.* 13, 3.

<sup>47</sup> Prashant Kumar Astalin, 'Qualitative research designs: A conceptual framework' (2013) *International Journal of Social Science & Interdisciplinary Research* 2(1) 118-124.

involves a thorough analysis of a particular event, situation, entity, or social group.<sup>48</sup> Thus, this research used a single case study because the researcher focus on one case which is the 'right to adequate food' in one bounded area of Borana Zone, Dubluk district.

### **1.7.2. Research Paradigm**

For the Empirical legal research methodology that employed the qualitative research method, the constructivism paradigm is used as a guiding framework. This paradigm makes an effort to "get into the heads" of the individuals being researched to comprehend and interpret what the individual is thinking or the meaning the participant is making of the situation. Instead of focusing on the observer's perspective, every attempt is made to comprehend the viewpoint of the participant being observed.<sup>49</sup> Since reality is socially created, the researcher holds that each study participant has a unique expression and perspective that can be used to interpret and respond to the research questions. As a result, this paradigm recognizes that individuals have unique perspectives on reality and how to articulate their current circumstances, and it places a strong emphasis on this subjective justification of problems.

### **1.7.3. Participant Selection Techniques and Sample Size Determination**

Participants in the study include IDPs, local government experts (Zone and Woreda Administration, Woreda *Buusaa-gonofaa* office, Woreda Health Office, and Woreda Social affairs office), and NGO staff providing humanitarian aid in the study area. Non-probability sampling technique, specifically purposive sampling technique, is employed for identifying research participants. According to Gentles et al.,<sup>50</sup> the term "purposive sampling" is used to denote that, participants are chosen based on their knowledge and experience to characterize their circumstances. The number of participants is decided using the data saturation point principle, which states that the researcher must end up gathering data when it becomes redundant. Thus, there were eight participants from IDPs, two FGDs with eight participants in each group (one with men and the second with women from IDPs), four key informants from relevant local government office, and two NGO workers providing humanitarian aid in the study area.

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<sup>48</sup> Robert Yin, *Case Study Research and Applications: Design and Methods* (6th ed., 2018).

<sup>49</sup> Charles Kivunja and Ahmed Bawa, 'Understanding and Applying Research Paradigms in Educational Contexts' (2017) *International Journal of Higher Education* 6(5) 26-41.

<sup>50</sup> Stephen Gentles, Cathy Charles, Jenny Ploeg, and Ann McKibbin, 'Sampling in Qualitative Research: Insights from an Overview of the Methods Literature' (2015) *The Qualitative Report* 20(11) 1772-1789.

#### **1.7.4. Data sources**

The study used both primary and secondary data sources. To conduct the study, a blend of doctrinal and empirical legal research methodologies was utilized, which required different types of data sources. For doctrinal legal research methodology, primary sources included statutory materials, subordinate legal materials, and case laws. On the other hand, secondary sources included textbooks and legal articles. For empirical legal research, the study used primary data sources, such as in-depth interviews, key informant interviews, focus group discussions, observation, and document review, to gather comprehensive data from IDPs, local government experts, and NGO staff. The study also used secondary data sources, such as document review and reports from government organizations and NGOs in the study area.

#### **1.7.5. Data Collection Methods**

To get comprehensive information on the issue under the study, the study employed in-depth and key informant interviews, focus group discussion (FGDs), observation, and document review as the techniques of data collection. These are illustrated below. The study used semi-structured in-depth interviews with IDPs. The other data collection technique is the key informant interview. The key informants for this study are those individuals with community knowledge and who hold positions in government offices and NGOs in the study area. These key informants include local government experts from (Zone and Woreda Administration, Woreda *Buusaa-gonofaa* Office, Woreda Health Office, Woreda Social Affairs Office), and NGO staff providing humanitarian aid in the local area. Furthermore, as a data collection technique, focus group discussions (FGDs) are employed. FGDs are based on a group of individuals with certain characteristics who focus on a particular issue. So, the participants in the FGDs are drought-affected adults (one FGD with men and one with women separately). Eight participants took part in each group discussion.

In addition to interviews, the study used non-participant overt observation. This is important to understand the difference between what people say during the interview and what is happening. Thus, I observed the current status of the right to adequate food in the study area, particularly, the availability, accessibility, and adequacy of food and factors affecting the realization of this right in the study area. Finally, to have a wide picture of the issue under study, I reviewed different documents like local government and NGO reports on the issues.

### **1.7.6. Data Analysis and Quality Assurance**

This study employed thematic analysis to analyze the data. Thematic analysis is a sort of qualitative analysis that can be used to analyze categories and explain themes (patterns) linked to the data).<sup>51</sup> As a result, all interviews that were recorded on audio are converted into text together with the researcher's field notes, which are coded into major sub-themes that appear in the empirical data and then analyzed to produce meanings. To enhance the trustworthiness of the findings of this study, I used data source triangulation and debriefing.

### **1.7.7. Ethical Consideration**

In research, the values of informed consent, confidentiality, privacy, anonymity, protection from harm, and the prevention of deception are among the ethical considerations.<sup>52</sup> When conducting this study, I have taken the aforementioned ethical issues into account.

## **1.8. Scope of the Study**

The study assesses the realization of the right to adequate food for pastoralist communities in drought situations with particular reference to Borana Oromo, Southern Ethiopia. Among the Borana pastoralists, the study is delimited to the Dubluk district. In terms of methodology, the research employed a blend of doctrinal and Empirical legal research using qualitative research method which needs more interaction and discussion with participants. Thematically, the study explores the normative contents of the right to adequate food, the nature of state obligation, and the extent to which the right to adequate food is realized in the study area. Thus, it assesses the status of the realization of the human right to adequate food of the pastoralist community in the study area as well as the factors affecting the realization of the rights in the study area.

## **1.9. Organization of the Study**

The research is organized into five chapters. The first chapter is an introductory part of the study containing the background of the study, statement of the problem, research questions, objectives and significance of the study, literature review, research methodology, scope, and tentative organization of the study. The second chapter discusses the definition, core content, and obligation of the state to realize the right to adequate food under international and regional human rights instruments. The third chapter deals with the legal and policy framework for the right to adequate food in Ethiopia. Chapter four presents and analyzes data

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<sup>51</sup> Mohammed Alhojailan, 'Thematic Analysis: A Critical Review of Its Process and Evaluation' (2012) West East Journal of Social Sciences 1(1) 39-47.

<sup>52</sup> Bridget Somekh and Cathy Lewin (eds), *Research Methods in the Social Sciences* (2005).

on the status of the realization of the right to adequate food in the study area. It also presents and discuss the finding on the degree to which the government has discharged its obligation towards the realization the right to adequate food for pastoralist communities in drought situations. Finally, the last chapter is devoted to the conclusion and recommendations.

## CHAPTER TWO

### 2. THE DEFINITION, CONTENT, AND OBLIGATION OF THE STATE TO REALIZE THE RIGHT TO ADEQUATE FOOD

#### 2.1. Introduction

This chapter examines the right to adequate food in depth, covering its definition, normative content, the obligations of the state, and its relationship with other human rights. The first section traces the emergence of the concept of the right to adequate food by referring to specific international and regional human rights instruments that recognize and enshrine this right. Building on the background of these instruments, the second section attempts to provide a precise definition of the right to adequate food as elaborated by the UN treaty bodies. This section also incorporates relevant case law from the Inter-American Court of Human Rights, the European Court of Human Rights, and the African Court on Human and Peoples' Rights to clarify the definition. The third section presents the normative or core content of the right to adequate food, drawing on the guidelines established in treaties and other human rights bodies. It also addresses the duties of the state in realizing this right, including its responsibilities in emergency situations. The final section of the chapter highlights the relationships and interdependencies between the right to adequate food and other human rights, using some rights such as the right to life, education, and health as an examples.

#### 2.2. The Recognition of the Right to Adequate Food under International and Regional Human Rights Instruments

The modern international system of protecting human rights was established in 1948 when the UN General Assembly adopted the UDHR. The declaration affirms that every individual possesses inherent dignity, equality, and inalienable rights. Furthermore, it symbolizes the commitment of UN members to promote social progress and a higher standard of living in general.<sup>53</sup> The UDHR recognizes a wide spectrum of human rights, including civil, political, economic, social, and cultural rights. One of the rights recognized in the UDHR is the right to food. The right to food was first recognized in UDHR, in the broader context of the right to an adequate standard of living. The inclusion of this right in the declaration was influenced by freedom from want which was one of President Roosevelt's "four freedoms" addresses.<sup>54</sup> According to Article 25 of the UDHR, "[e]veryone has the right to a standard of living adequate for the health and well being of himself and his family including food, clothing, and

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<sup>53</sup> UDHR, (n 1) The preamble.

<sup>54</sup> Asbjørn Eide, 'The Human Right to Adequate Food and Freedom from Hunger' in *The Right to Food in Theory and Practice* (Food and Agriculture Organization of the United Nations, 1998) pp. 1-5

housing....”<sup>55</sup> Thus, food is considered one of the essential components of the right to an adequate standard of living in the UDHR.

While the UDHR was the first international human rights document to recognize the right to an adequate standard of living including food, it is a non-binding legal document. Thus, the adoption of the ICCPR and the ICESCR in 1966 marked a significant milestone in the recognition of human rights, including the right to adequate food. In addition to their binding nature, the ICCPR and ICESCR define the right under the UDHR in a clearer and more precise fashion.<sup>56</sup> Although the UDHR initially came out as a non-binding resolution, numerous UDHR principles have been incorporated into other international human rights treaties including the ICCPR and ICESCR. Consequently, the rights recognized under the UDHR have now acquired the status of Customary International Law and are now considered a part of the general principle of law recognized by civilized nations.<sup>57</sup> Moreover, the ICCPR, ICESCR, and the UDHR together constitute what is commonly referred to as the "International Bill of Rights." This framework provides a comprehensive and integrated approach to human rights protection and implementation, including the right to adequate food.

The right to adequate food is recognized in these international human rights instruments in different contexts. The ICESCR recognizes the right to adequate food as a component of the right to an adequate standard of living under Article 11. The first paragraph of this article states that “State parties to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.”<sup>58</sup> Sub-article 2 of this article further recognizes the fundamental right of everyone to be free from hunger, and the obligation of states to take the measures specified under this provision, individually and through international cooperation.<sup>59</sup> Unlike the UDHR, the ICESCR uses the term "adequate food" instead of simply "food," which has significant legal implications as will be discussed in the subsequent section of this chapter. Additionally, the ICESCR recognizes the fundamental right of every individual to be free from hunger, which is not explicitly stated in the UDHR. Therefore, under the ICESCR, the right to an adequate standard of living includes, among other things, the right to adequate food and the fundamental right to be free from

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<sup>55</sup> UDHR (n 1).

<sup>56</sup> Parvez Hassan, 'The International Bill of Human Rights' (1973) *Pakistan Horizon* 26(4) 28-42, p 33.

<sup>57</sup> Oliver D Shutter, (n 7) 16.

<sup>58</sup> ICESCR (n 2) art 11.

<sup>59</sup> *Ibid.*

hunger. It is worth noting that the right to be free from hunger is the only right recognized as a "fundamental right" in the covenant.<sup>60</sup>

When we look at the recognition of the right to adequate food in the ICCPR one can at first glance conclude that this right never exists in the covenant because the ICCPR does not explicitly mention the right to adequate food; however, there are some provisions of the covenant that indirectly deals with the right to adequate food. For instance, Article 1(2) of the covenant provides for the right of all people to freely dispose of their natural wealth and resources. It states that "In no case may a people be deprived of its own means of subsistence."<sup>61</sup> According to H. Shue, the right to subsistence includes adequate food, clothing, and shelter, as well as basic preventive public healthcare. He contends that subsistence rights are basic rights since failing to address them will jeopardize the enjoyment of other rights. He further stated that this is not to say that subsistence rights are only a means to an end; they are a vital component of the enjoyment of other rights and are inherent necessities.<sup>62</sup> It is this connection between the right to subsistence and adequate food that makes the recognition of the former in the ICCPR recognition of the latter.

There is also a close link between the right to adequate food and the enjoyment of other human rights under the ICCPR. This link between the right to adequate food and the enjoyment of other human rights has been emphasized by the UN human rights treaty bodies. For instance, the committee on ESCR, a treaty body mandated to monitor the interpretation of ICESCR in its General Comment 12 states that: "The right to adequate food is indispensably linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights."<sup>63</sup> As discussed above, the International Bill of Human Rights consists of the UDHR, ICESCR, and ICCPR which grants civil and political rights, socio-economic rights, and various individual and group rights. Therefore, according to the committee, the right to adequate food is a necessary condition to live in dignity and enjoy all other human rights be it civil and political, socio-economic and group or individual.

The recognition of the right to adequate food under the ICCPR has been further emphasized by the Committee on Civil and Political Rights in its General Comment 36 on the right to life. In this General Comment, the committee stressed that the right to life requires the state not

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<sup>60</sup> Rolf Künemann, 'Basic Income: A States' Obligation Under the Human Right to Food' (paper presented at

<sup>61</sup> International Covenant on Civil and Political Rights, 16 December 1966, art 1(2).

<sup>62</sup> Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (1996) 23-28.

<sup>63</sup> General Comment 12 ( n 6) par 4

only to refrain from killing or just protecting the physical security of the individual but also to adopt positive measures including those that aim at eliminating malnutrition.<sup>64</sup> The elimination of malnutrition presupposes the provision of adequate food. Thus, we can conclude that the right to adequate food is recognized under the International Bill of Human Rights.

The right to adequate food is also recognized in various international human rights instruments that aim to protect specific groups of individuals. For instance, The CRC addresses the right to adequate food in two contexts. Firstly, under Article 27(1), the convention recognizes the right of every child to a standard of living that is adequate for their physical, mental, spiritual, moral, and social development. This provision requires state parties to provide material assistance and support programs, including nutrition, clothing, and housing for those in need.<sup>65</sup> Secondly, under Article 24, the convention acknowledges the right of the child to the highest attainable standard of health, imposing on the state the obligation to combat disease and malnutrition by providing adequate, nutritious foods.<sup>66</sup> The Committee on the Rights of the Child further elaborated on this in General Comment 15, defining adequate nutritious food as being naturally adequate, culturally appropriate, and safe.<sup>67</sup> Overall, these provisions of the CRC address the right to adequate food while outlining the state's responsibility to tackle malnutrition and disease.

Similarly, the CEDAW also incorporates the concept of the right to adequate food under Article 12, which aims at eliminating discrimination against women in the field of healthcare. This Article stipulates that “State parties shall ensure to women appropriate service in connection with pregnancy, confinement and the post-natal period, granting free service where necessary as well as adequate nutrition during pregnancy and lactation.”<sup>68</sup> It is worth mentioning that both the human right to food and health include nutrition as a component.<sup>69</sup> That is why both the CRC and CEDAW recognize the right to adequate food as a necessary condition for the enjoyment of the right to health. The CRPD also refers to the right to food. Article 28 of this convention contains the right of persons with disabilities to an adequate standard of living, which includes adequate food, clothing, and housing, as well as the

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<sup>64</sup> General Comment 36 (n 5).

<sup>65</sup> CRC (n 9) art 27(2).

<sup>66</sup> Ibid art 27 (1) 24(1), (2) (c).

<sup>67</sup> Committee on the Rights of the Child, General Comment No. 15: The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art. 24) (17 April 2013) CRC/C/GC/15, par. 43.

<sup>68</sup> CEDAW (n 8 ) art 12(2).

<sup>69</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), Fact Sheet No. 34, 'The Right to Adequate Food (2010), (Fact Sheet 34) 5.

continuous improvement of living conditions.<sup>70</sup> Furthermore, General Comment No. 5 of the ESCR Committee stipulates that ensuring access to food, housing, and other necessities, including support services like assistive devices, is a fundamental part of the right to an adequate standard of living for persons with disabilities.<sup>71</sup> In all the above-mentioned international human rights instruments, the right to adequate food is recognized either in the context of the right to adequate standard of living or the right to health showing its correlation and necessity for the enjoyment of other human rights.

At a regional level, there are some human rights instruments that directly or indirectly deal with the right to adequate food. One of these is the ACRWC, which deals with the right to adequate food in the context of the right to health. Article 14 of the charter states that “Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.”<sup>72</sup> It obliges state parties to ensure the provision of adequate nutrition and combat malnutrition. Another regional instrument that addresses the right to adequate food is the protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa. Article 20(1) of this protocol states that people with disabilities have the right to an adequate standard of living, which includes access to adequate food, safe drinking water, housing, sanitation, and clothing to improve their living conditions and ensure social protection.<sup>73</sup>

Similarly, the protocol to the African Charter on Human and Peoples' Rights on the right of women in Africa (Maputo protocol), addresses the right to adequate food. Article 15 of the protocol entitled “The right to food security” requires state parties to ensure that women have the right to nutritious and adequate food. This provision obliges states to provide access to clean water, domestic fuel, and the means of producing nutritious food, as well as establish an adequate system of supply and storage to ensure food security.<sup>74</sup> One peculiar feature of the Maputo protocol is that, the right to adequate food and state obligation towards it is addressed in the context of food security. However, various literature show that there is a distinction between food security and the right to food. This is also acknowledged in Fact Sheet No.34 from OHCHR which unequivocally states that although food security is a prerequisite for the

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<sup>70</sup> Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3, entered into force 3 May 2008, art 28.

<sup>71</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities (E/C.12/2005/4) par 33.

<sup>72</sup> African Charter on the Rights and Welfare of the Child, Organization of African Unity, 1999), art 14 (2) (c) (d))

<sup>73</sup> African Disability Rights Protocol, (n 13) art 20.

<sup>74</sup> Maputo Protocol (n 14) art 15. 15 (a) (b)

enjoyment of the right to food, it is not a legal concept that confers entitlement or imposes obligations on stakeholders.<sup>75</sup>

Other literature also indicates that the right to adequate food and the right to food security have different justifications. The first distinction is that while the justification for food security can be based on moral or economic reasons, the foundation for human rights is solely based on the idea of human dignity. The second one is the fact that food security is a policy concept. Accordingly, striving for the achievement of food security means working towards a policy goal that states have the autonomy to manage, produce, and distribute food without being subject to international law although there are some restrictions from another field of law such as provisions on natural law and trade.<sup>76</sup> The third distinction is the fact that an individual can be food secure while his/her right to adequate food is violated.

Coming back to the discussion on the recognition of the right to adequate food in regional human rights instruments, unlike the above-mentioned regional human rights documents, the ACHPR does not explicitly recognize the right to adequate food. However, the African Commission on Human and Peoples' Rights (the commission) in the landmark case *SERAC v Nigeria*, established that the right to food is implicit in the Charter, in the provisions such as the right to life (article 4 of the charter), right to health (article 16 of the charter) and the right to economic social and cultural development (article 22 of the charter).<sup>77</sup> The Commission's resolution on the right to food and nutrition further affirms this position, recognizing that the right to food is inherent in the right to life, the right to health, and the right to economic, social, and cultural development under the ACHPR.<sup>78</sup> Generally, despite the differences in terminologies and the scope of recognition of the right to food in regional human rights instruments, the Resolution on the Right to Food and Nutrition in Africa emphasizes that the right recognized in these instruments generally refers to the human right to adequate food.

### **2.3. The Definition of the Right to Adequate Food**

As discussed above, the right to adequate food is recognized in the major human rights instruments in the broader context of the right to an adequate standard of living. However, the phrase "adequate standard of living" has not been given a precise definition under pertinent

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<sup>75</sup> Fact sheet 34, (n 69), 4.

<sup>76</sup> Kerstin Mechlem, 'Food Security and the Right to Food in the Discourse of the United Nations' (2004) *European Law Journal* 10(5) 631–648, 643.

<sup>77</sup> Center for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v. Kenya AfCoHPR, (2009), (*Endorois v Kenya* case) para 64.

<sup>78</sup> African Commission on Human and Peoples' Rights, 65th Ordinary Session, Banjul, The Gambia, 21 October - 10 November 2019, ACHPR/Res.431(LXV)2019, (Resolution on the Right to Food and Nutrition in Africa).

international human rights instruments.<sup>79</sup> Nonetheless, the Committee on ESCR has defined the components of the right to an adequate standard of living such as adequate housing, adequate health, adequate water, and adequate food by adopting a General Comment for each. These general comments provide authoritative guidance to states on how to interpret and implement the ICESCR. Accordingly, in response to the increasing recognition of the significance of the right to adequate food and requests from various stakeholders, the committee adopted General Comment 12 on the right to adequate food. This General Comment provides the definition, core content, and nature of state obligation toward the right to adequate food. The committee has defined the right to adequate food in this general comment as follows:

The right to adequate food is realized when every man, woman, and child, alone or in a community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins, and other specific nutrients.<sup>80</sup>

The above definition provided by the committee suggests that the right to food is primarily the right to access food and the ability to feed oneself. This right is not limited to a particular food item or minimum packages of calories, proteins, or other nutrients. Instead, it encompasses the availability of food with all the elements of adequacy. The Committee recognizes not only the individual's right to adequate food but also the community's right to have access to adequate food. This recognition is crucial because human rights may initially appear to be individualistic, but the quality of our social relationships is fundamental to realizing individual human rights.<sup>81</sup> That is why the realization of the right to adequate food is interpreted by the committee as the right to enjoy alone or in community with others.

In addition to the interpretative General Comment, in 2000 the UN Commission on Human Rights, replaced by the Human Rights Council in 2006, appointed a special rapporteur on the right to adequate food. The mandate of the special rapporteur was to collect and analyze data in every aspect of the realization of the right to food, to cooperate with governments, NGOs, and international organizations on the promotion and effective implementation of the right to food, and to identify new global issues about the right to food.<sup>82</sup> The first UN Special

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<sup>79</sup> Asbjørn Eide (n 54) 33.

<sup>80</sup> General Comment 12, (n 6) par 6.

<sup>81</sup> A. Belden Fields, *Rethinking Human Rights for the New Millennium* (Palgrave Macmillan, 2003) As cited in George Kent, *Freedom from Want: The Human Right to Adequate Food* (Foreword by Jean Ziegler, 2005) 47.

<sup>82</sup> Commission on Human Rights, Resolution 2000/10, Establishment of the Mandate of the Special Rapporteur on the Right to Food (April 2000).

Rapporteur on the right to food, Mr. Jean Ziegler, in his 2001 report to the UN Commission on Human Rights defined the right to food as:

The right to have regular, permanent, and free access, either directly or using financial purchases, to food that is quantitatively and qualitatively adequate, corresponds to the cultural traditions of the people to which the consumer belongs, and ensures a physical and mental life, both individual and collective, that is fulfilling and dignified, free of fear.<sup>83</sup>

This definition of the special rapporteur shares some elements with the definition provided by General Comment 12 such as access to food both individually and collectively, but it is broader than the latter. As per this definition, the right to food is the right to freely access food regularly and permanently either directly which means producing food or purchasing it from the market. Adequacy is addressed both in terms of quality and quantity. Most importantly, the notion of dignity and freedom from fear is also incorporated in this definition of the rapporteur. Similarly, the resolution on the right to food and nutrition in Africa has also provided a compressive definition of the right to food. According to this resolution:

The right to adequate food is realized when everyone alone or in a community with others has physical and economic access at all times to adequate food or means of its procurement and is free from hunger even in times of natural or other disasters.<sup>84</sup>

This definition of the right to adequate food shares similarities with the definition of the special rapporteur as well as General Comment 12 on aspects such as physical and economic access to the right either individually or as a community. But it adds an important element to the definition which is ensuring freedom from hunger during emergencies, such as natural disasters or conflicts. This means that adequate food must be available and accessible to individuals and communities even in emergencies.

Generally, the right to adequate food can be defined as having both physical and economic access to food that meets the necessary quality and quantity of adequacy. This includes ensuring that adequate food is accessible to everyone in the community, either individually or communally, in every situation, including emergencies. It is also crucial that the food is culturally appropriate and compatible with human dignity. The right to adequate food is an essential human right that upholds the dignity of individuals and communities, and it does not simply involve being fed.

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<sup>83</sup> Jean Ziegler, Report on the Right to Adequate Food, UN Doc. E/CN.4/2001/53 (2001) par 17

<sup>84</sup> Resolution on the Right to Food and Nutrition in Africa, (n 78).

## **2.4. The Definition of the Human Right to Adequate Food as Developed by the Regional Human Rights Systems**

The right to adequate food and the corresponding obligations of states have been interpreted by the African Commission on Human and Peoples' Rights, the Inter-American Court of Human Rights, and the European Court of Human Rights in several cases. These cases define the right to adequate food in a very clear manner and elaborate the obligations of states in ensuring its realization. In what follows, I will discuss some cases from these regional human rights systems to provide a comprehensive understanding of the definition, content, and scope of the right to adequate food.

### **2.4.1. The African Commission on Human and Peoples' Rights**

The African Commission on Human and Peoples' Rights was established by the ACHPR to promote human and peoples' rights and ensure their protection in Africa.<sup>85</sup> The Commission is also mandated to interpret the provisions of the Charter and receive communications on human and peoples' rights.<sup>86</sup> Through its interpretation, the Commission has given substance to the provisions of the Charter and given meaning to the rights it enshrines. In its landmark case, *SERAC v. Nigeria*, the Commission addressed economic, social, and cultural rights, including the right to food. The case was brought by the Social and Economic Rights Action Center and the Center for Economic and Social Rights for the alleged violations of several rights, including the right to food, due to environmental degradation caused by oil exploration in Ogoni land.

In this case, the Commission found that the Nigerian government had violated the right to life, the right to health, and the right to the economic, social, and cultural development of the Ogoni people by allowing and facilitating the operation of oil corporations without due regard to the environment or health of the community. The commission concluded that by violating those rights that are explicitly recognized by the ACHPR, the government has tramped up on the right to adequate food which is implicitly recognized in those provisions.<sup>87</sup> In this case, the commission characterized the right to adequate food as inseparably linked to human dignity and essential for the enjoyment and fulfillment of other rights such as health, education, work, and political participation.<sup>88</sup> In addition to defining the right to adequate food, the commission has also provided a framework on the obligation of state parties to

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<sup>85</sup> African Charter on Human and Peoples' Rights, adopted 27 June 1981, art 30.

<sup>86</sup> *Ibid* art 45, 47, 55.

<sup>87</sup> *SERAC v Nigeria Case*, (n 11) par 64.

<sup>88</sup> *Ibid* par 60- 65

respect, protect, fulfill, and promote the right to adequate food, which will be discussed in subsequent sections.

In the *Endorois v Kenya* case as well, the commission has provided a comprehensive definition of the right to adequate food and its link with other human rights under the ACHPR including the right to life. The case was brought before the commission by the Center for Minority Rights Development Kenya and Minority Rights Group International on behalf of the Endorois welfare council, who claimed that the government's act of evicting the indigenous community from their ancestral land had resulted in a violation of their human rights. The complainants argued that the eviction had prevented them from practicing their pastoralist way of life, including the use of ceremonial and religious sites and accessing traditional medicine. Accordingly, the commission found that, by taking the Endorois people's ancestral land around Lake Bogoria to create a game reserve for tourists, the government of Kenya had violated their property rights, the right to practice religion and culture, freely dispose of natural resources, and development as recognized under the ACHPR.<sup>89</sup>

The commission's interpretation of the ACHPR has emphasized the connection between economic, social, and cultural rights and the right to life. The commission has affirmed that the right to life requires states to protect and ensure the protection of this right, which includes generating minimum living conditions that are compatible with the dignity of human beings.<sup>90</sup> The commission cited the Inter-American Court of Human Rights' definition of minimum living conditions, which includes food, housing, and clean water, to emphasize the gravity of the violation of the Endorois people's rights by the Kenyan government. Thus, as per this jurisprudence, states must uphold human rights, including the right to life, by creating living conditions that meet the minimum standards of human dignity.

#### **2.4.2. The Inter-American Court of Human Rights**

The right to adequate food, recognized in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (Protocol of San Salvador),<sup>91</sup> has been comprehensively interpreted by the IACtHR. In this regard, the *Lhaka Honhat ('our land') v. Argentina* case is significant in that it was the first time the IACtHR analyzed the right to adequate food and recognized the importance of protecting indigenous

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<sup>89</sup> *Endorois v Kenya* case, n 76, par 212

<sup>90</sup> *Ibid* par 217

<sup>91</sup> Additional Protocol to the American Convention on Human Rights on the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) (adopted 1998) art 11.

peoples' lands and natural resources for their cultural and physical survival.<sup>92</sup> In this case, indigenous members of the *Lhaka Honhat* Association sued the Argentine government for violating their right to communal property and failing to provide legal security for their land resulted in the violation of their right to adequate food, participation in cultural life, and judicial protection.

The court found that the Argentine government violated the right to property, cultural identity, and judicial protection under the American Convention on Human Rights. The court emphasized that the right to adequate food is not just any food but food that is acceptable to a specific culture.<sup>93</sup> Moreover, the state has an obligation not only to respect but also to ensure the right to food, which includes the obligation to protect this right as conceived by the CESCR.<sup>94</sup> Generally, in the *Lhaka Honhat* (“our land”) v Argentina case, the right to adequate food, the obligation of states to protect and ensure it, and the importance of protecting indigenous peoples' land and natural resources for their survival are established.

The *Xakmos Kasek Indigenous Community v Paraguay* case is also a significant example of the court's interpretation of the right to food. In this case, as well, the indigenous community filed a petition before the court claiming that the government of Paraguay had illegally taken their ancestral land, which resulted in a violation of their human rights. The court found that the government of Paraguay had violated the human rights of the indigenous community, including the right to property, effective remedy, and non-discrimination under the American Convention on Human Rights. In particular, the court emphasized that access to food, water, healthcare, and education is a necessary condition for a dignified existence.<sup>95</sup> The court's ruling, in this case, stresses the importance of protecting the rights of indigenous communities to their ancestral lands and resources, which are essential to their cultural and physical survival. It establishes the link between the right to food, the right to life, and the protection of indigenous peoples' rights to their ancestral lands and resources. It clearly shows that the denial of access to food, water, and healthcare is a violation of the right to live with dignity.

### **2.4.3. The European Court of Human Rights**

The ECtHR has not addressed the right to food as a standalone right as this right is not explicitly recognized under the European Convention on Human Rights. However, the ECtHR

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<sup>92</sup> Indigenous community of Lhaka Honhat (our land) association v. Argentina, reparation and cost judgment, Feb 6, 2020, (Lhaka Honhat v Argentina case)

<sup>93</sup> Ibid Par 274.

<sup>94</sup> Ibid para 216,219,221.

<sup>95</sup> Ibid para 197, see also *Yakye Axa Indigenous Community v. Paraguay* Judgment of June 17, 2005 para 221

jurisprudence shows that violent interference with housing rights and assets necessary to produce food has been considered a violation of civil rights.<sup>96</sup> One example is the *Rusi Kosev Stanev v. Bulgaria* case. In this case, the applicant Stanev, who had been diagnosed with schizophrenia, was declared partially incapacitated by a court without his knowledge. He was then taken to a social care home for people with mental disorders, where he was kept under constant supervision and only allowed to leave with explicit permission. Stanev's desire to leave the home was rejected until independent psychiatrists and psychologists found in 2006, six years after his detention, that his schizophrenia diagnosis was inaccurate and that his residence in the home was damaging his mental health. Stanev brought a complaint before the ECtHR, arguing that his right to a speedy review had been violated. He also claimed that the poor living conditions in the care home, including inadequate food, amounted to degrading treatment.<sup>97</sup>

In determining the overall duration and lawfulness of Stanev's detention, the court examined the conditions of his detention, including access to medical treatment and adequacy of the food provided. The court concluded that the living conditions to which the applicant was exposed in a social care institution including the provision of inadequate food amounts to inhuman and degrading treatment.<sup>98</sup> This case highlights how denial of adequate food can be considered a violation of the right to be free from inhumane and degrading treatment, even in the absence of a clear stipulation of the right to adequate food under the European Convention on Human Rights.

Similarly, the *Ciorap v. Moldova* case highlights how inadequate conditions in detention facilities, including the provision of poor quality and quantity of food, can constitute inhuman and degrading treatment as per Article 3 of the European Convention on Human Rights. In this case, the applicant who was arrested by the Moldovan authorities for smuggling complained about the condition of his detention in prison. In particular, he alleged the poor and overcrowded cell, the rudimentary sanitary condition, and the very poor quantity and quality of food served.<sup>99</sup> The ECtHR found that the Moldovan authorities' failure to provide him with food while he was in pre-trial detention amounted to inhuman treatment. The court further held that, as a result of extreme overcrowding, unsanitary conditions, and the low

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<sup>96</sup> Christian Curtis, 'The right to food as a justiciable right: challenges and strategies (2007) Max Planck Yearbook of United Nations Law 11 317-337, p 335

<sup>97</sup> *Rusi Kosev Stanev v. Bulgaria*, Application no. 36760/06, European Court of Human Rights, Fifth Section, Decision on Admissibility (29 June 2010) Par 197

<sup>98</sup> *Ibid* Par 212.

<sup>99</sup> *Ciorap v. The Republic of Moldova (No. 5)*, Application no. 7232/07, European Court of Human Rights, Second Section, Judgment (15 March 2016) par 9.

quantity and quality of the food provided, the condition of detention had violated Article 3 of the Convention which prohibits inhuman and degrading treatment.<sup>100</sup> Therefore, although the court did not directly deal with the right to adequate food, the case had established that inadequate conditions of the detention facility, including the inadequacy of food served, amount to inhuman and degrading treatment.

### **2.5. The Normative Contents of the Right to Adequate Food**

The realization of the right to adequate food requires the fulfillment of certain essential components. General Comment 12 of the ESCR committee identifies three core components of the right to adequate food: Adequacy, Accessibility, and Availability. Each of these components is discussed below.

**Adequacy:** according to the Committee, the first core content of the right to food is adequacy. The committee defines adequacy as “Food in quantity and quality sufficient to satisfy the dietary needs of the individual free from adverse substances and acceptable within a given culture.”<sup>101</sup> The committee recognizes that the precise definition of adequacy is largely determined by various factors such as social, economic, cultural, climatic, ecological, and others. Adequate food may mean different things for different people depending on their age, living conditions, health, occupation, sex, and other factors.<sup>102</sup> This implies that what may be considered adequate food for a baby may not be considered adequate for an adult.<sup>103</sup> Hence, according to the Committee, adequacy encompasses the following core elements.

The first core element of adequacy is dietary needs, which is concerned with the nutrients in food that are necessary for physical and mental growth, development, maintenance, and physical activity.<sup>104</sup> These needs vary according to an individual's age, gender, occupation, and other factors. The second element is ensuring that food is free from adverse substances, which is concerned with food safety and ranges of protective measures by both private and public means to prevent contamination of foodstuffs.<sup>105</sup> The last element is cultural or consumer acceptability, which takes into account the non-nutritional value attached to food

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<sup>100</sup> Ibid para 70.

<sup>101</sup> General Comment 12, (n 6) par 8.

<sup>102</sup> Fact sheet 34, (n 69) p 5.

<sup>103</sup> Maria Carolina Sousa, 'A Gender-Based Approach to the Right to Food' (Master's thesis, Åbo Akademi University, 2020/2021) 17.

<sup>104</sup> General Comment 12, (n 6) par 9.

<sup>105</sup> Ibid par 10.

and food consumption, as well as consumers' concerns about the nature of the food they have access to.<sup>106</sup>

**Availability:** Availability is another core content of the human right to adequate food. To enjoy the right to adequate food, food must be available to individuals. Availability refers to the ability of individuals to obtain food either through direct access to productive land and other natural resources or through well-functioning market systems that can transport food from its point of production to the place where it is needed.<sup>107</sup> This means that the availability of food is dependent on various factors such as geographic location, transport infrastructure, trade policies, and market conditions. In cases where food is not available, individuals are often left without access to the necessary nutrients required for a healthy and active life. Therefore, it is crucial that governments and other relevant actors take steps to ensure that food is available to all, particularly those who are most vulnerable and marginalized in society.

**Accessibility:** as discussed in the previous section on the definition of the right to adequate food, access to adequate food is essential for the realization of the right. Adequate and available food must also be accessible to all, either individually or in the community. Accessibility consists of physical and economic accessibility to adequate food. Economic accessibility requires that the cost of obtaining adequate food should not compromise the attainment and satisfaction of other basic needs. Physical accessibility, on the other hand, concerns the actual accessibility of adequate food for everyone, including vulnerable groups such as infants, young children, the elderly, the physically disabled, the terminally ill, and individuals with persistent medical problems, including mental illness.<sup>108</sup> The committee emphasizes that special attention and priority consideration should be given to victims of natural disasters, people living in disaster-prone areas, and disadvantaged groups in making food accessible.

Sustainability, which refers to the long-term availability and accessibility of food is also mentioned as an intrinsic element of adequacy. It is concerned with how stable the adequacy, availability, and accessibility of food throughout time. Therefore, the right to adequate food extends beyond freedom from hunger to meet the adequacy criteria,<sup>109</sup> and it is essential to ensure that access to food is available to everyone. Hence, considering the points discussed

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<sup>106</sup> Ibid par 11.

<sup>107</sup> Ibid par 12.

<sup>108</sup> Ibid par 13.

<sup>109</sup> Lorenzo Cotula (ed.), *The Right to Food and Access to Natural Resources: Using Human Rights Arguments and Mechanisms to Improve Resource Access for the Rural Poor* (2008) p 15.

above, to ensure that the right to adequate food is fully realized, the food should meet the elements of adequacy, availability, and accessibility.

## **2.6. The Nature of State Obligation towards the Realization of the Right to Adequate Food**

International human rights treaties once ratified impose legal obligations on states parties to give effect to the rights recognized under the treaty. Although specificity on the obligation of states toward the right to adequate food varies from instrument to instrument, the right to adequate food imposes three layers of obligation on the state: the obligation to respect, protect, and fulfill.<sup>110</sup> As Kent stated, to have adequate food and to have the right to adequate food are quite different. The latter not only shows a normative claim but also the idea that others have specific obligations to ensure the realization of this right.<sup>111</sup> This shows that there are specific obligations placed on states to ensure the realization of the right to adequate food. Still, it is important to note that adequate food is a human right, and state obligation toward its realization does not mean that the government has to provide free food to everyone who needs it. This is one of the common misunderstandings about the right to adequate food.<sup>112</sup>

As previously discussed in this chapter under the definition of the right to adequate food section, the right to food is primarily the right to feed oneself with dignity, rather than the right to be fed directly by the government. However, individuals must live in conditions that allow them to either produce or purchase food. In exceptional scenarios, such as during natural disasters or armed conflicts, the government has to directly provide food to individuals who are unable to access it.<sup>113</sup>

In stipulating the obligation of the state, while the ICESCR recognizes that socio-economic rights, including the right to adequate food, may take time to be fully realized due to resource constraints, some obligations are of an immediate nature known as minimum core obligations. Minimum core obligations refer to those aspects of obligations that states must comply with to ensure the satisfaction of, at a very least, minimum essential level of each of the rights under the covenant.<sup>114</sup> These obligations have three distinct characteristics: the first characteristic is immediacy, which requires unconditional compliance. The second one is completeness, dealing with full compliance at all times; and the last one is universality, which

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<sup>110</sup> General comment 12 (n 6) Par 15. See also Fact sheet 34, n 69 p 17

<sup>111</sup> George Kent, *Freedom from Want: The Human Right to Adequate*, n 81, p 1

<sup>112</sup> Fact sheet 34 (n 69) p 3.

<sup>113</sup> General comment 12 (n 6) par 15.

<sup>114</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties Obligations (Art. 2, Para. 1, of the Covenant)*, 14 December 1990, (General comment No 3) par 10

shows that it is binding all states parties regardless of their wealth and resources.<sup>115</sup> Hence, minimum core obligations by their nature are immediate, complete, and universal.

Concerning the right to adequate food, the first minimum core obligation is the obligation to take steps toward achieving its full realization. In this respect, the ESCR committee in its General Comment 3 mentioned that steps towards the realization of socio-economic rights must be deliberate, concrete, and targeted towards meeting the obligations recognized in the covenant and must be taken within a reasonably short period of time.<sup>116</sup> The second immediate obligation of the state is the prohibition of discrimination in relation to access to food and related resources based on various factors such as race, sex, age, religion, and so on. This principle of non-discrimination is an unconditional rule with regard to all human rights and is encapsulated under Article 2 (2) of the ICESCR and other human rights documents.<sup>117</sup> The third immediate obligation towards the realization of the human right to adequate food is the prohibition of retrogressive measures, which requires the state not to deteriorate the existing level of fulfillment of the right to food unless there are compelling reasons to do so.<sup>118</sup>

The fourth and most crucial immediate obligation of the states regarding the right to adequate food is fulfilling the minimum essential level required to be free from hunger, even in times of natural disasters or other crises. This obligation must be immediately complied with by all states. It sets a minimum standard that applies to all states, regardless of their resources, requiring them to prioritize resources even in situations where resources are scarce.<sup>119</sup> If a state fails to ensure the satisfaction of the minimum essential level necessary to be free from hunger, it is a violation of the covenant.<sup>120</sup> Therefore, if a state is unable to comply with this obligation, it must demonstrate that every effort has been made to use all available resources to meet this obligation, including seeking international support, but was unsuccessful. The phrase "to the maximum of its available resources" under Article 2 of ICESCR refers to both the resources within the state and those available from the international community as per Articles 55 and 56 of the UN Charter.<sup>121</sup>

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<sup>115</sup> John Tasioulas, *Minimum Core Obligations: Human Rights in the Here and Now* (World Bank, 2017) p 12.

<sup>116</sup> General comment 3 (n 114) par 12

<sup>117</sup> *Ibid* par 1.

<sup>118</sup> *Ibid* par 9.

<sup>119</sup> John Tasioulas, (n 11) p 12.

<sup>120</sup> General Comment 12 (n 6) par 17.

<sup>121</sup> General Comment 3, (n 112) par 13-14 and General Comment No. 12 (n 6,) para 36.

As discussed in the previous section, the right to adequate food imposes three layers of obligations on the state, namely the obligation to respect, protect, and fulfill the right.

The first obligation is **Obligation to respect**: this obligation requires state parties not to take any measures that would prevent individuals from accessing adequate food.<sup>122</sup> The duty to respect recognizes that the primary responsibility for realizing the right to adequate food lies with the individual, who must engage in economic and other lawful activities to achieve this. Therefore, the state's responsibility is to refrain from interfering with the lawful activities that individuals undertake to enjoy this right.

The second layer of obligation is **obligation to protect**: the compliance with this obligation requires state parties to take measures to ensure that enterprises or individuals do not deprive individuals or communities of their access to adequate food.<sup>123</sup> The state should prevent third parties from violating the right to adequate food. To fulfill this obligation, the state should exercise due diligence and take appropriate measures when violations occur. Hence, the essential component of this obligation is protecting the existing access to food. This is also addressed by the ICCPR Committee in elaborating the duty to protect life. General Comment 36 of the committee states that, the obligation to protect life includes measures designed to ensure individuals' access without delay to essential goods and services such as food, water, shelter, healthcare, electricity, and sanitation.<sup>124</sup> Thus, the obligation to protect imposes the duty to ensure non-interference by third parties in the enjoyment of the right to adequate food.

The third type of obligation is **obligation to provide**: this obligation places a dual duty on the state.<sup>125</sup> The first one is the obligation to facilitate, which requires the state to proactively engage in activities that strengthen people's access to resources and means that guarantee their livelihood, including food security. This includes taking legislative, administrative, and judicial measures to primarily support individual efforts to gain access to food.<sup>126</sup> The second one is the obligation to provide, which requires the state to directly provide sufficient food and other supplementary resources when individuals or groups are unable to feed themselves due to circumstances beyond their control, such as natural disasters or armed conflicts.<sup>127</sup> Thus, the obligation to provide requires the state parties to support individuals effort to obtain adequate food and to directly provide when individuals or groups are not in position to feed

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<sup>122</sup> General Comment 12 (n 6) Para 15

<sup>123</sup> Ibid

<sup>124</sup> General Comment 36 (n 5) par 26

<sup>125</sup> General Comment 12 (n 6) Para 15

<sup>126</sup> Ibid

<sup>127</sup> Fact sheet 34, (n 69) p 3.

themselves. In general, the right to adequate food imposes obligation to respect, obligation to protect, and obligation to provide.

### **2.7. The Responsibility of the State towards the Realization of the Right to Adequate Food in Times of Emergencies**

The principle of international law and the international community widely acknowledges that each state bears the primary responsibility to take care of victims of natural or man-made disasters that occur on its territory.<sup>128</sup> Accordingly, a range of both legally binding and non-binding documents have been enacted to underscore the obligation of states before, during, and after a disaster. To mention, the United Nations Convention to Combat Desertification, which was enacted to address desertification and alleviate the impact of drought in nations facing severe drought and desertification issues, primarily in Africa is one.<sup>129</sup> Article 2 of the convention obliges affected member countries to prioritize combating desertification and drought while allocating resources to their unique circumstances and capacities at various levels. It also requires this effort to be supported by international collaboration and partnership agreements.<sup>130</sup> Furthermore, the convention calls for the reinforcement of existing legislation and, in cases where they are absent, the creation of new laws and the establishment of enduring policies and action plans.<sup>131</sup>

The Hyogo Framework for Action, which was adopted by the UNGA during the World Conference on Disaster Reduction, stipulates that: “Each state has the primary responsibility for its sustainable development and for taking effective measures to reduce disaster risk, including for the protection of people on its territory, infrastructure, and other natural asset from the impact of disaster.”<sup>132</sup> One of the framework's top priorities for action is the reduction of underlying risk factors, and a key activity within this priority is the promotion of social and economic development practices. Additionally, the Hyogo Framework for Action underscores the critical role of states in promoting food security, particularly in areas prone to hazards like droughts, floods, cyclones, and other events that can threaten agriculture-based livelihoods.<sup>133</sup> Recognizing the global nature of disaster risk, the Hyogo Framework acknowledges the necessity of international cooperation. It underscores that such cooperation

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<sup>128</sup> International Law Commission, Draft Article on the Protection of Person in the Event of Disaster, 2016 the preamble

<sup>129</sup> United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa Paris, 14 October 1994, Article 2

<sup>130</sup> Ibid Article 5 (e)

<sup>131</sup> Ibid

<sup>132</sup> United Nations International Strategy for Disaster Reduction, Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (2005), (Hyogo Framework for Action) par 13(b)

<sup>133</sup> Ibid par 19 (4) (ii)

is vital for contributing to the knowledge, capacity, and motivation required for disaster risk reduction at all levels.

The Sendai Framework for Disaster Risk Reduction 2015-2030, which succeeds the Hyogo Framework also provides a set of guiding principles as well as lists of activities to be carried out by the states before, during, and after disaster. In this Framework for Disaster Risk Reduction, there is a notable expansion in the scope of disaster risk reduction including the focus on both natural and man-made hazards, as well as related environmental, technological, and biological hazards and risks.

According to the Sendai Framework for Disaster Risk Reduction, the overarching goal of managing the risk of disasters is to safeguard individuals and their property, health, livelihoods, productive assets, as well as cultural and environmental assets.<sup>134</sup> It places a strong emphasis on protecting and promoting all human rights, making the promotion and protection of human rights central to disaster risk management. The framework also provides a set of guiding principles, including the recognition of the primary responsibility of each state to prevent and reduce disaster risk through international, regional, and sub-regional levels via transboundary, and bilateral cooperation.<sup>135</sup> It further stipulates that this responsibility should be shared between the central government and relevant national authorities, sectors, and stakeholders.<sup>136</sup> Among the priority areas outlined in the framework, a noteworthy aspect is the emphasis on enhancing disaster preparedness for effective response and promoting the concept of "Build Back Better" during recovery, rehabilitation, and reconstruction efforts.<sup>137</sup> As per the "Build Back Better" principle the rehabilitation and reconstruction of disaster-affected areas should result in a more resilient and improved state compared to their pre-disaster condition.

Similarly, the Voluntary Guidelines on the Realization of the Right to Adequate Food requires special attention to be given to disaster prevention and preparedness. It stipulates that the state should put in place adequate and functioning mechanisms of early warning to prevent or mitigate the effect of natural or human-made disasters.<sup>138</sup> Early warning systems should be based on international standards and cooperation on reliable, disaggregated data and should be constantly monitored. The state should take appropriate emergency preparedness measures

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<sup>134</sup> United Nations Office for Disaster Risk Reduction, Sendai Framework for Disaster Risk Reduction 2015-2030 (United Nations Office for Disaster Risk Reduction 2015) par 19 (b) (c)

<sup>135</sup> Ibid par 19 (a)

<sup>136</sup> Ibid par 19 (b)

<sup>137</sup> Ibid par 20

<sup>138</sup> Voluntary Guidelines on the realization of the right to adequate food (n 31).

such as keeping food stock for the acquisition and taking steps to put in place an adequate system for distribution.<sup>139</sup> This indicates the duty of the state to give utmost priority to disaster risk prevention and preparedness to adequately respond where it can materialize.

In the context of realizing the right to adequate food in emergencies arising from man-made or natural disasters, the state bears a distinct nature of obligation. The distinctiveness of this obligation stems from the fact that because of their very nature, emergency situations frequently need a shift from the obligation to facilitate to the obligation to provide.<sup>140</sup> Consequently, in the event of a natural or man-made disaster, states should provide food assistance to those in need. In doing so, the state may request international assistance if its resources are insufficient.<sup>141</sup> The state should also facilitate safe and unhindered access to international assistance in accordance with international law and universally recognized humanitarian principles, taking into account local circumstances, dietary traditions, and culture.<sup>142</sup> Moreover, the humanitarian assistance provided must be in accordance with the principles of humanity, neutrality, and impartiality.<sup>143</sup>

## **2.8. The Relationship between the Right to Adequate Food and Other Human Rights**

The relationship between the right to adequate food and other human rights emanates from the fact that all human rights are universal, indivisible, and interdependent.<sup>144</sup> This is also affirmed by the ESCR in General Comment 12, which states that “The right to adequate food is indispensably linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined under the bill of human rights.”<sup>145</sup> That means the right to adequate food is necessary for the enjoyment of civil and political rights as well as other socio-economic rights. Thus, ensuring the right to adequate food plays an important role in the enjoyment of other human rights including the right to life, health, education, and political participation. The following paragraph shows the indispensable link between the right to adequate food and some other human rights.

The right to life is one of the fundamental human rights which is closely linked with the right to adequate food. This link is elaborated in General Comment 36 of the ICCPR Committee

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<sup>139</sup> Ibid par 16.7.

<sup>140</sup> Lorenzo Cotula and Margaret Vidar, *The Right to Adequate Food in Emergencies* (Food and Agriculture Organization of the United Nations, 2002) 34.

<sup>141</sup> Voluntary Guidelines on the realization of the right to adequate food (n 31).

<sup>142</sup> Ibid

<sup>143</sup> United Nations General Assembly, Resolution 46/182 (19/12/91) (1991) par 5

<sup>144</sup> Vienna Declaration and Programme of Action, UN Doc. A/CONF.157/23 (12 July 1993) par 5.

<sup>145</sup> General Comment 12 (n 6) par 4.

which stipulates that: the duty of the state in protecting the right to life is not limited only in refraining from killing people but it includes elimination of malnutrition. Elimination of malnutrition and the protection of the right to life are related because hunger and malnutrition may result in illness or death by starvation.<sup>146</sup> The right to adequate food is also closely linked to the right to health which is recognized under Article 12 of the ICESCR. According to General Comment 14 of the committee, the right to the highest attainable standard of physical and mental health is not confined to the right to healthcare. Instead, the right to health encompasses a wide range of economic factors that support conditions in which people can live a healthy life, as well as underlying health determinants such as food and nutrition.<sup>147</sup>

One of the primary responsibilities of states in ensuring the enjoyment of the right to adequate health is providing access to nutritionally adequate and safe food to ensure freedom from hunger.<sup>148</sup> Research shows that hunger and malnutrition are the direct causes of numerous health issues in children, including developmental failure and delays. They can also cause or contribute to adult illness, for example, as a result of an imbalanced or low-quality diet.<sup>149</sup> Hence, the enjoyment of the right to health presupposes the supply of adequate food and proper nutrition.

There is also a significant interdependence between the right to adequate food and education. This is mainly due to the fact that hunger and malnutrition impair children's learning abilities and may force them to drop out of school, thus undermining the enjoyment of their right to education.<sup>150</sup> Yet, the link between the right to adequate food and other human rights is not limited to these illustrative scenarios, rather the fulfillment of the right to adequate food is a necessary condition for the enjoyment of other human rights as well. Ensuring the right to adequate food will promote the enjoyment of other human rights because "When all of one's energy and daily effort is focused on acquiring enough food to survive, it is difficult or impossible to defend one's rights."<sup>151</sup> Thus ensuring access to adequate food is essential for the promotion and protection of all human rights and the protection of dignity.

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<sup>146</sup> Fact sheet 34 (n 69) 5.

<sup>147</sup> CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), adopted at the Twenty-second Session on 11 August 2000 (General Comment 14) par 4 and 36.

<sup>148</sup> Ibid par 43 (b).

<sup>149</sup> Rolf Künemann and Sandra Epal-Ratjen, *The Right to Food: A Resource Manual for NGOs* (FIAN International, 2005) 69.

<sup>150</sup> Fact Sheet 34 (n 69) 5. See also General Comment No 36 (n, 5) par 26

<sup>151</sup> Kerstin Mechlem, 'Food Security and the Right to Food in the Discourse of the United Nations' *European Law Journal* 10(5) 631–648.

## CHAPTER THREE

### 3. THE LEGAL AND POLICY FRAMEWORK ON THE RIGHT TO ADEQUATE FOOD IN ETHIOPIA

#### 3.1. Introduction

This chapter deals with the legal framework on the protection of the right to adequate food in Ethiopia. Using the discussion on the definition, core content, and the nature of state obligations under the previous chapter as a background, the chapter begins with a brief overview of Ethiopia's constitutional history and its implications for safeguarding and promoting human rights, including the right to adequate food. The subsequent part of the chapter focuses on the place of the right to adequate food within the FDRE Constitution. It also discusses the debates surrounding the status of international human rights treaties under the FDRE constitution. It highlights the diminishing relevance of these arguments in contemporary times, especially regarding the protection of human rights in general and the right to adequate food in particular.

The following section focuses on how socio-economic rights, including the right to adequate food, are recognized in the FDRE constitution. Here, while mentioning some civil and political rights that are relevant for the realization of the right to adequate food, the main argument of the thesis primarily emphasizes the status of socio-economic rights under the FDRE constitution. The final section of this chapter sheds light on various national policies that directly and indirectly address the human right to adequate food. In general, the chapter aims to examine the recognition of the right to adequate food in Ethiopia, outlining its implications for realization of this right and identifying existing loopholes.

#### 3.2. Overview of the Constitutional Development in Ethiopia and Its Implication for the Protection of Human Rights

In Ethiopia, the promotion and protection of human rights in general and socio-economic rights, in particular, have exhibited varying degrees of recognition throughout the constitutional history of the country. The 1931 Constitution, enacted during Emperor Haile Selassie's reign, holds the distinction of being the first written constitution in Ethiopia's history. Its primary objective was to uphold the monarch's power and present Ethiopia as a modern nation. While the Constitution recognizes certain rights, such as freedom of movement and protection against extrajudicial arrest and punishment, its main focus lies on political and individual liberties. Only a few provisions were designated for economic, social, and cultural rights, such as the right to ownership of property and religious freedom. However, the constitution granted the emperor the authority to suspend these rights during times of war

or emergency.<sup>152</sup> Consequently, the 1931 Constitution has failed to provide comprehensive protection for human rights as well as socio-economic rights including the right to adequate food.

Within the emperor's regime, a revised constitution was introduced in 1955. The introduction of a revised constitution was prompted by several factors, with two main reasons often cited by scholars. The first reason was the reunification of Eritrea and Ethiopia in 1952. The revision was required because the 1931 Constitution which was enacted to uphold the monarchical power of the emperor posed a challenge to the democratic principles of the Eritrean constitution and the UNGA Federal Act.<sup>153</sup> Accordingly, the UN commissioner in Eritrea indirectly influenced the emperor to revise the constitution to align with the Eritrean constitution and international standards.<sup>154</sup> The second reason for enacting the 1955 constitution was the adoption of UDHR. Since, Ethiopia was one of the 48 countries that adopted this groundbreaking human rights document, recognizing the inherent dignity and fundamental freedoms of all individuals.<sup>155</sup> This was further specified in Article 122 of the constitution which explicitly states that the constitution, along with international treaties and obligations shall be the supreme law of the empire.<sup>156</sup>

This revised constitution has made textual acknowledgments of citizens' rights and liberties, although their actual implementation remained unpredictable.<sup>157</sup> Notably, the 1955 constitution introduced a minor advancement in recognizing economic, social, and cultural rights. It included provisions for social welfare, labor rights, and the conservation of cultural heritage. Nonetheless, the absolute power held by the emperor, and the presence of claw-back clauses in the constitution, limited the practical relevance and effectiveness of these rights.<sup>158</sup>

Following the overthrow of the Monarchy, the socialist military government known as the "Derg" seized power and established its authority. The consolidation of power culminated in the introduction of the 1987 constitution, which institutionalized and monopolized the regime's control.<sup>159</sup> Notably, this constitution marked a significant departure from its

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<sup>152</sup> Ayferam, Gashaw. "Constitution, constitutionalism and foundation of democracy in Ethiopia." *International Journal of Research (IJR)* 2, no. 1 (2015): 586-96.

<sup>153</sup> *Ibid* p 591

<sup>154</sup> Bereket Habte Selassie, "Constitutional Development in Ethiopia" (1966), 74-91.

<sup>155</sup> Ibrahim Idris, "The Place of International Human Rights Conventions in the 1994 Federal Democratic Republic of Ethiopia (FDRE) Constitution" (2000) 20 *J. Ethiopian L.* 113, 115.

<sup>156</sup> Revised Constitution of the Ethiopian Empire, 1955

<sup>157</sup> Ayferam, Gashaw (n 146) p 593-594.

<sup>158</sup> Adem Kassie. "Human rights under the Ethiopian constitution: a descriptive overview." (2011) *Mizan Law Review* 5, no. 1: 41-71.

<sup>159</sup> Assefa Fisha, "Federalism Teaching Material" (Justice and Legal System Research Institute, 2009) 54.

predecessors, the 1931 and 1955 constitutions of the emperor. The 1987 Constitution, influenced by the socialist leanings of the regime, placed a strong emphasis on economic, social, and cultural rights. It particularly acknowledged the right of Nations, Nationalities, and People to self-determination and development, a novel provision at the time.<sup>160</sup> In addition to this, the constitution explicitly recognized socio-economic rights, including the right to work, education, healthcare, and social security.<sup>161</sup> However, despite these apparent advancements on paper, the regime was characterized by fear and repression, creating an inhospitable environment for the recognition and exercise of human rights. As one author aptly remarked, ‘The Constitution does not merit so much discussion because it died well before it was born.’<sup>162</sup>

### **3.3. Human Rights under the FDRE Constitution**

The current Ethiopian constitution was enacted in 1995; the constitution introduced a federal system of government where power is shared between federal and regional governments. The FDRE Constitution introduced a substantial departure from the previous constitutions in terms of recognition of human rights as it devotes more than one-third of its provision to human rights and fundamental freedoms. In this regard, chapter three of the constitution is entirely dedicated to fundamental rights and freedoms, drawing inspiration from internationally recognized documents such as the UDHR, ICCPR, and ICESCR.<sup>163</sup>

This chapter of the constitution is divided into two parts, the first part covers human rights (Articles 14-28), and the second part addresses democratic rights (Articles 29-44). Article 10 of the Constitution declares the inviolability and inalienability of human rights and fundamental freedoms, which are inherent to all individuals.<sup>164</sup> Article 10 reads: “Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable”. Sub article 2 of this provision states that the human and democratic rights of citizens and peoples shall be respected.<sup>165</sup> Furthermore, the Travaux Preparatoires of the Constitution shows that human rights are those to which a person is entitled simply because he or she is a human being, whereas democratic rights are those conferred only on the citizen.<sup>166</sup>

This provision of the constitution together with the Travaux Preparatoires may appear to justify the distinction between human rights and democratic rights under the FDRE

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<sup>160</sup> Adem Kassie (n 152) 42.

<sup>161</sup> Ibid 42.

<sup>162</sup> Sileshi Zeyohannes 'Constitutional Law II' (Justice and Legal System Research Institute, (2009) 372

<sup>163</sup> Yeshewas Ebabu (n 27) 113.

<sup>164</sup> FDRE Constitution (n 23) art 10

<sup>165</sup> Ibid

<sup>166</sup> Adem Kassie (n 152) 52

Constitution. However, some argue that this division between human and democratic rights lacks basis in the constitution and the nature of the rights and freedoms listed there.<sup>167</sup> This scholar further argues that a closer examination of the rights encompassed under the democratic rights section includes those rights traditionally recognized as human rights, making the distinction artificial.<sup>168</sup>

Another scenario that shows the weakness of this distinction is the exceptional characteristic of the Constitution which is its implicit recognition of the interdependence and indivisibility of all generations of human rights. The Constitution treats these rights equally without any distinction in their consequence.<sup>169</sup> This recognition underscores the Constitution's commitment to upholding the holistic nature of human rights and promoting their equitable enjoyment for all individuals. By incorporating these rights on an equal footing, the constitution provides a comprehensive framework for the promotion and protection of human rights in Ethiopia. Hence, the distinction between human and democratic rights under the FDRE constitution which leads to the argument that only human but no democratic rights emanate from inherent dignity is ill-founded.

### **3.4. The Status of International Human Rights Treaties under the FDRE Constitution**

Ethiopia holds an important position as a state party to major human rights instruments and other documents aimed at safeguarding the rights of individuals. The country ratified the ICESCR in 1993, CEDAW in 1981, the CRC in 1991, and the CRPD in 2010.<sup>170</sup> Ethiopia also played a significant role in the adoption of the UDHR in 1948, which is considered the cornerstone of modern international human rights law. In addition to these international legal instruments, Ethiopia is a state party to regional human rights instruments such as the ACHPR, the Maputo Protocol, the ACRWC, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities. Remarkably, Ethiopia became the third country to ratify the Protocol on the Rights of Older Persons in Africa.<sup>171</sup>

In addition to their ratification, these international human rights instruments are given due recognition in the Constitution. According to Article 9 (4) of the FDRE constitution, all

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<sup>167</sup> Sisay Yeshanew, "The justiciability of human rights in the Federal Democratic Republic of Ethiopia" (2008) African Human Rights Law Journal 8, no. 2, 275-276.

<sup>168</sup> Ibid 275-276.

<sup>169</sup> Adem Kassie (n 152) 44

<sup>170</sup> Husen Tura (n 41) 9.

<sup>171</sup> HelpAge International, Ethiopia Ratifies the African Protocol on the Rights of Older People despite Covid-19 (10, July 2020) Available at: <https://www.helpage.org/news/ethiopia-ratifies-the-africa-union-protocol-on-the-rights-of-older-people-despite-covid19/> (Last accessed on 20/6/2023).

international agreements ratified by Ethiopia are considered an integral part of the law of the land.<sup>172</sup> Moreover, Article 13 (2) of the constitution specifies that the interpretation of fundamental rights and freedoms under Chapter Three of the Constitution should be in line with the principles of the UDHR, international human rights covenants, and international instruments adopted by Ethiopia.<sup>173</sup> This provision has sparked diverse interpretations among legal scholars, leading to debates regarding the position of human rights treaties under the Ethiopian constitution. The academic debates surrounding the status of human rights under the FDRE constitution take two major perspectives which can be summarized as follows:

One perspective in the academic discourse regarding the status of human rights under the FDRE constitution argues that the constitution holds supremacy over all laws, including ratified human rights treaties. This view is based on the supremacy clause under Article 9(1) of the constitution, which establishes the constitution as the supreme law of the land. The other constitutional provision used as a justification by this group of scholars is Article 55 (12) of the constitution, which states that international treaties concluded by the executive are ratified by the HPR, the legislative organ responsible for issuing various proclamations. Therefore, according to the proponents of this line of argument both human rights treaties and proclamations are enacted by the HPR and should be considered subordinate to the constitution.<sup>174</sup> Some even argue that Article 13 of the constitution which requires conformity with international instruments in interpreting fundamental rights and freedom is not a hard rule because conformity is required only in cases where interpretation is necessary. Therefore, in instances where clear differences exist between the Constitution and international instruments, or when there are explicit constitutional provisions that require application, the Constitution takes precedence over treaties.<sup>175</sup> Hence, this line of argument gives international human rights instruments a status subordinate to the constitution and equal to the proclamations.

The second viewpoint is held by scholars who argue that both treaties and constitutions hold the same position in the country's hierarchy of law. Their reasoning emanates from Article 13 (2) of the constitution which requires the interpretation of chapter three of the constitution in conformity with international human rights instruments. According to this line of argument, article 13 of the Constitution implies that these instruments should be considered on par with

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<sup>172</sup> FDRE Constitution (n 23) art 9 (4)

<sup>173</sup> Ibid art 13 (2).

<sup>174</sup> Ibrahim Idris (n 149) 132.

<sup>175</sup> Adem Kassie (n 152) 48

the Constitution. Some further argue that the equal status between the constitution and international treaties is necessary because, without this equal status, the federal government could potentially have a constitutional basis to violate citizens' right to life during a state of emergency.<sup>176</sup> Moreover, the intentional separation of international agreements under Article 9 (4) of the constitution, distinct from other domestic laws covered under Article 9 (1), indicates the drafter's intention to provide them with a different status.<sup>177</sup>

The argument of the second group of scholars resonates more because the subordination of international treaties to the constitution is against the principle of good faith and *pacta sunt servanda* under the VCLT. Besides, equating treaties with proclamations would grant the legislative branch the power to enact laws that contradict treaty provisions by invoking the principle of *lex specialis*. So, equating a treaty with a proclamation is empowering the legislative to enact any law that contravenes the treaty provision by simply invoking the *lex specialis* maxim of the law.

Having these two lines of argument in mind, it is important to note that the status of human rights treaties under the FDRE constitution has moved beyond the realm of academic debates. As suggested in Saboka's work, the responsibility now lies with the courts and the HoF to provide clarity on the uncertainties surrounding the position of treaties within the country's normative hierarchy.<sup>178</sup> Interestingly, courts and the HoF have been resolving cases by directly invoking provisions from international human rights instruments, even though these instruments have not been translated into the working language or published in the federal Negarit Gazeta. Even more interestingly, the new federal court proclamation, as specified under Article 6 (1) (a), empowers the federal court to settle cases by drawing upon the provisions of treaties to which Ethiopia is a party.<sup>179</sup> This in turn demonstrates a practical application of international human rights instruments in the country in disregard of the academic debates.

For example: in *Tsedale Demissie v. Kifle Demissie* case, the Federal Supreme Cassation division applied the provision of the CRC to settle the dispute. The case centers on a disagreement between a father and a maternal aunt concerning the custody and management

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<sup>176</sup> Chi Mgbako, Sarah Braasch, Aron Degol, and Melisa Morgan, "Silencing the Ethiopian courts: Non-judicial constitutional review and its impact on human rights" (2008) *Fordham Int'l LJ* 32, 259, see also Minasse Haile, "The new Ethiopian constitution: its impact upon unity, human rights, and development" (1996) 271-272.

<sup>177</sup> Takele Soboka, "The monist-dualist divide and the supremacy clause: revisiting the status of human rights treaties in Ethiopia" (2009) *Journal of Ethiopian Law* 23., no. 1 132-160.

<sup>178</sup> *Ibid* 16.

<sup>179</sup> Federal Court Establishment Proclamation, Federal Negarit Gazeta Year 27<sup>th</sup> No. 13. Proclamation No. 1234/2021 art 6 (1).

of an inheritance received by a minor from his late mother. Contrary to the rulings of the lower courts which favored the father, the Cassation Division of the Federal Supreme Court reversed the decision in favor of the aunt. The court rests its reasoning on the principle of the best interest of the child, the principles outlined in Article 3(1) of the CRC and Article 36(2) of the FDRE Constitution, which prioritize the best interests of the child over the patrimonial relation in the law of succession.<sup>180</sup> This implies that, courts can directly apply the provision of international treaties and practice judicial activism to provide clarity on the uncertainties surrounding the status of human rights treaties under the FDRE constitution.

### **3.5. The Place of the Right to Adequate Food under the FDRE Constitution**

The human right to adequate food is not explicitly mentioned under the fundamental rights and freedoms chapter of the FDRE Constitution. However, the constitution recognizes a handful of socio-economic rights. The socioeconomic rights under the Ethiopian constitution have some variations from the UDHR, ICESCR, and civil and political rights under the constitution. One of the major differences between civil and political rights is that economic social and cultural rights are guaranteed only for the benefit of Ethiopians.<sup>181</sup> Socio-economic rights are also formulated in a way that creates abstract obligations on the government rather than creating rights for individuals.<sup>182</sup> While the constitution does not recognize the human right to adequate food as a free-standing right, there are provisions related to socio-economic rights that bear relevance to the right to adequate food in one way or another. In what follows, some of the provisions of the FDRE constitution on socio-economic rights as well as civil and political rights which are relevant to the realization of the right to adequate food will be discussed.

### **3.6. Socio-Economic Rights under the FDRE Constitution and Their Implication for the Right to Adequate Food**

The constitution has incorporated economic, social, and cultural rights under Article 41.<sup>183</sup> This article recognizes socio-economic rights including the right to choose one own means of livelihood, the right to have equal access to publicly funded social service, and the right of farmers and pastoralists to receive fair prices for their products that would lead to improvement in their condition of life.<sup>184</sup> It also obliges the government to allocate ever-

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<sup>180</sup> Federal Supreme Court Cassation Division, *Tsedale Demissie v Kifle Demissie* (2006) File no. 23632, Judgment 6 November).

<sup>181</sup> Adem Kassie (n 152) 54.

<sup>182</sup> *Ibid* 55.

<sup>183</sup> FDRE Constitution (n 23) art 41

<sup>184</sup> *Ibid*.

increasing resources to provide public health, education, and other social services.<sup>185</sup> While this Article defines socio-economic rights collectively, it can be interpreted to encompass specific socio-economic rights, including the right to adequate food, because even in the ICESCR this right is addressed in the context of the right to an "Adequate standard of living". Additionally, the broad phrase "Other social service" in Article 41(4) may be understood to encompass rights such as housing, social security, safe and potable water, and food, among others.<sup>186</sup>

It is worth noting that the title of Article 41 which reads "Economic, Social, and Cultural rights" can be interpreted as including other socio-economic rights that are not specifically mentioned in the provision. This is inline with the principles outlined in the UDHR, ICESCR, and other international human rights treaties as per the interpretation under Article 13(2) of the constitution.<sup>187</sup> Therefore, although the FDRE Constitution does not explicitly mention the right to adequate food, Article 41 and the interpretive guidance of Article 13(2) can be used for the recognition and potential inclusion of this right within the broader framework of economic, social, and cultural rights in the Constitution.

Another provision of the constitution that deals with socio-economic rights is Article 43 (1) which states: "The people of Ethiopia as a whole and each the nations, nationality and people in particular have the right to improved living standard and sustainable development."<sup>188</sup> The right to adequate food, international and regional human rights instruments have recognized it as a component of the right to an adequate standard of living. Particularly, Article 11 of the ICESCR specifically acknowledges the right to an adequate standard of living, emphasizing the need for continuous improvement in living conditions.<sup>189</sup> Consequently, the right to improved living standards, as enshrined in Article 43 (1) of the FDRE constitution, can be viewed as encompassing the right to an adequate standard of living, including the right to adequate food.

Similarly, Article 40 (1) of the FDRE Constitution recognizes the right to ownership of private property. The constitution also recognizes the right of peasants and pastoralists to obtain land for grazing and cultivation without payment as well as the right not to be displaced from their land.<sup>190</sup> Though the land is a common property of the Nation, Nationality,

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<sup>185</sup> Ibid art 41 (4).

<sup>186</sup> Sisay Yeshanew, (n 159) 135, 140

<sup>187</sup> FDRE Constitution (n 23) art 13 (2)

<sup>188</sup> FDRE Constitution (n 23) art 43(1).

<sup>189</sup> ICESCR (n 2) art 11.

<sup>190</sup> Ibid art 40 (1).

and people of Ethiopia, the recognition of the right to private property and access to land for peasants and pastoralists in the constitution has a significant implication for the right to adequate food. This correlation between the right to property and adequate food was emphasized in the *Endorois v Kenya* case where the African Commission on Human and Peoples' Rights established that indigenous ownership of resources is associated with the most fundamental human rights including the right to food.<sup>191</sup> Similarly, in *Lhaka Honhat ("our land") v Argentina* case, the IACtHR further affirmed that the suitability and cultural adequacy of the property title may be considered as a pre-condition to the right to life, personal integrity, and health.<sup>192</sup> The court further stated that "Allocation of the culturally adequate territorial property enables the respective indigenous people and their members to have access to food, water, and their traditional health and healing system."<sup>193</sup> Hence, the recognition of the right to private property can be considered as the recognition of the right to adequate food.

These jurisprudences are significant not only in the context of indigenous communities and their land rights but also in highlighting the impact of violating socio-economic rights on the enjoyment of other human rights, particularly the right to adequate food. Therefore, the recognition of the right to private property under the FDRE Constitution is crucial for the realization of the right to adequate food. Because the right to adequate food is primarily about the ability to feed oneself with dignity for which access to necessary resources is essential.

### **3.7. Civil and Political Rights under the FDRE Constitution and Their Implication for the Right to Adequate Food**

Article 15 of the FDRE Constitution stipulates that "Every person has the right to life. No person may be deprived of his life except as a punishment for a serious criminal offense determined by law."<sup>194</sup> As discussed in Chapter Two, the jurisprudence of various human rights courts and interpretations by treaty bodies have indicated that food is the minimum existential condition that the state must fulfill in its effort to protect the right to life. For instance, in *Malawi Africa Association and others v Mauritania*, the African Commission on Human and Peoples' Rights held that denying people food and medical attention shows a shocking lack of respect for life and constitutes a violation of the Charter.<sup>195</sup> Similarly, the IACrHR in the *Sarayaku v Ecuador* case established that people's reliance on the resource of

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<sup>191</sup> *Endorois v. Kenya* case (n 77) par 212.

<sup>192</sup> *Lhaka Honhat v. Argentina* (n 92) Par 168.

<sup>193</sup> *Ibid.*

<sup>194</sup> FDRE Constitution (n 23).

<sup>195</sup> *Malawi African Association and Others v. Mauritania*, Comm. Nos. 54/91, 61/91, 98/93, 164/97 à 196/97 and 210/98, African Commission on Human and Peoples' Rights, 11 May 2000, par 120.

the jungle for survival due to the depletion of their crops and foods demonstrates the failure of the state to adopt the necessary positive measures available for it which in turn was described as a violation of the right to life.<sup>196</sup> These two jurisprudences indicates that the protection of the right to life presupposes the fulfillment of minimum essential conditions including access to adequate food.

The relation between the right to food and other socio-economic right including the right to life is established by General Comment 36 stating that the state's duty to protect the right to life includes taking measures to address adequate conditions for protecting the right to life.<sup>197</sup> According to the Committee, "These measures include where necessary measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, healthcare, electricity and sanitation and others,...."<sup>198</sup> As Ethiopia has ratified the ICCPR, which is considered an integral part of the country's law as per Article 9(4) of the constitution, this guiding interpretation of the right to life by the ICCPR committee applies to the interpretation of the right to life under the FDRE constitution. Hence, the interpretations provided by the Human Rights Committee and the aforementioned jurisprudences strongly support the argument that the right to adequate food is implicitly recognized in the FDRE Constitution in the provision dealing with the right to life.

The stipulation for the right to human dignity is another provision of the FDRE constitution where the direct link with the right to adequate food can be established. According to Article 24 of the constitution, "Everyone has the right to respect for his human dignity, reputation, and honor."<sup>199</sup> This provision recognizes the right to human dignity and as defined by the ESCR Committee in General Comment 12, the right to adequate food is inseparably linked to human dignity and essential for the enjoyment and fulfillment of other rights such as health, education, work, and political participation.<sup>200</sup> Since food is a necessary condition to live a dignified life, the recognition of the right to human dignity in the constitution signifies the state's commitment to ensuring all the necessary conditions for it, including the protection of the right to adequate food.

In addition to the above-mentioned provision under the fundamental rights and freedom chapter of the constitution, the provisions in Chapter Ten of the FDRE Constitution, which

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<sup>196</sup> Kichwa Indigenous People of Sarayaku v. Ecuador, judgment of June 27, 2012, para. 233-235.

<sup>197</sup> General comment 36 (n 5) par 26

<sup>198</sup> General comment 36 (n 5) par 26.

<sup>199</sup> FDRE Constitution (n 23) art 24.

<sup>200</sup> SERAC v Nigeria (n 11) par 65.

focuses on national policy principles and objectives, also play a significant role in addressing socio-economic rights. One such provision is article 90 (1) which states that “To the extent the countries resource permits, policies shall aim to provide all Ethiopian access to public health and education, clean water housing, food and social security.”<sup>201</sup> Likewise, Article 89 (3) of the constitution obliges the government to take measures to avert any natural or manmade disaster and to provide timely assistance to the victims in the event of a disaster.<sup>202</sup> There are different viewpoints on the interpretation and implication of these provisions.

Some scholars argue that, since food as a right is not mentioned under the fundamental rights and freedoms chapter of the constitution, the reference to food under this provision is to simply guide the national policies and programs.<sup>203</sup> According to these scholars, this provision of the constitution cannot be considered as bearing an enforceable legal duty on the state. Other scholars argue that though it does not recognize the right to adequate food as a justiciable right these constitutional provisions that deal with national policy principles and objectives either establish important guarantees or have direct relevance to the interpretation of fundamental rights.<sup>204</sup> This line of argument further states that the provision of these chapters can also be utilized as tools to give direction on how the fundamental rights and freedoms including Article 41 and other articles relevant to socio-economic rights under the FDRE Constitution be interpreted and constructed.<sup>205</sup>

Generally, it is reasonable to argue that the provisions of the aforementioned articles on national policy principles and objectives are included in the FDRE Constitution, along with the socio-economic rights guaranteed by Article 41. This supports the claim that these rights are impliedly safeguarded by the Constitution. Therefore, the right to adequate food should be interpreted within the constitutional provisions addressing socio-economic, civil, and political rights, as well as national policy principles and objectives.

### **3.8. The Right to Adequate Food under National Food Security and Other Relevant Policies and Strategies in Ethiopia**

Ethiopia has implemented specific food security policies and strategies that play a crucial role in ensuring the realization of the right to adequate food since 1996. The relevance of these policies for the realization of the right to adequate food is more evident if we look at the

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<sup>201</sup> FDRE Constitution (n 23) art 90 (1)

<sup>202</sup> Ibid art 89 (3)

<sup>203</sup> Rakeb Messele, "Enforcement of Human Rights in Ethiopia" (unpublished, Addis Ababa, 2002) 29, Girmay Teklu, "Analysis on Legal Status of the Right to Food," J. POL. SCI. & PUB. AFF. at 7 (2019): p 5 ,Yeshiwas Ebabu, (n 27) 118.

<sup>204</sup> Adem Kassie (n 152) 43. See also Sisay Yeshanew, (n 159) 5.

<sup>205</sup> Sisay Yeshanew, (n 159) 142-147.

authoritative definition of food security provided by the FAO in 2002. According to this definition, “Food security is a situation that exists when all people, at all times, have physical, social, and economic access to sufficient, safe, and nutritious food that meets their dietary needs and food preferences for an active and healthy life.”<sup>206</sup> This definition shares the element of the definition of the right to adequate food such as the possibility of all people having physical and economic access to adequate food at all times. In addition to the physical, social, and economic access to food, the fourth dimension which is “stability” is added to this definition in the recent modification made at the 2009 World Summit on Food Security.<sup>207</sup> This in turn emphasizes the importance of stability as an indicator of a food system's ability to withstand shocks.

But still, the distinction between food security and the right to adequate food as outlined in Chapter Two should not be disregarded. The major difference is that the justification for food security can be based on moral or economic reasons, while the right to adequate food derives from the inherent dignity of the individual and is recognized as a legal concept under binding international instruments.<sup>208</sup> Also, the right to adequate food imposes obligations on the state to ensure its realization, while food security is a policy matter that grants the state discretion in implementation.<sup>209</sup> However, both concepts share the common goal of ensuring accessibility, availability, and adequacy of food. They are complementary, as acknowledged by the UN OHCHR in its statement that “Food security is a prerequisite for the enjoyment of the right to adequate food.”<sup>210</sup>

Ethiopia's commitment to the protection and promotion of the right to food is evident in its range of policies that address the issue of food. Despite the debate regarding the explicit recognition of the right to adequate food in the FDRE Constitution discussed above, the national food and nutrition policy explicitly states that food is both a constitutional and human right of all citizens.<sup>211</sup> It further emphasizes that the provision of food and nutrition services should always take into consideration the human rights of every individual. Thus, the policy emphasizes the importance of upholding and respecting human dignity in food and nutrition. Along with food security policy, the country has also formulated different policies and

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<sup>206</sup> Food and Agriculture Organization (FAO). (1996). Rome Declaration on World Food Security and World Food Summit Plan of Action. World Food Summit, 13-17 November 1996, Rome, Italy.

<sup>207</sup> Food and Agriculture Organization (FAO). (2009) Declaration of the World Summit on Food Security

<sup>208</sup> Kerstin Mechlem, (n 76) 643

<sup>209</sup> Ibid.

<sup>210</sup> Fact sheet 34 (n 69) 4.

<sup>211</sup> Federal Democratic Republic of Ethiopia, The 2018 Food and Nutrition Policy of Ethiopia (November 2018), (Food and Nutrition Policy of Ethiopia) 8.1.2

strategies that directly or indirectly impact the realization of the right to adequate food in different times. The next discussion summarizes the food-related aspect of some of these policies and strategies.

Agricultural Development-Led Industrialization (ADLI) Strategy (1996): This strategy aimed at making agriculture a driving force for economic prosperity and poverty alleviation.<sup>212</sup> One of the objectives of the ADLI was to address food insecurity in the country by promoting food self-sufficiency and increasing domestic agricultural production to meet the country's food needs. The strategy has also introduced the National Food Security Program which aims at improving the variance of food availability in the country through sustainable farming practices, expanding agricultural land, and improving water management. The Program is built on three pillars: increasing food availability through domestic production, ensuring access to food for food-deficit households, and strengthening emergency response capabilities.<sup>213</sup> While it is beyond the scope of this thesis to discuss the challenges and limitations associated with it, it is worth mentioning that the ADLI is one of the national policies and strategies that demonstrates the country's commitment to ensure the accessibility of food.

The Productive Safety Net Program (PSNP), initiated in 2005, is a key policy in Ethiopia that directly impacts the realization of the right to adequate food. It is recognized as the second largest safety net program in Africa following South Africa and among the largest in the world.<sup>214</sup> The objective of the PSNP is to assist chronically food-insecure individuals through the provision of food, cash, or a combination of both. This support aims to help them survive periods of food deficits and prevent the depletion of their productive assets while meeting their basic needs.<sup>215</sup> The program consists of three components: the Direct Support Program, which aids those unable to work due to disability, old age, or illness. The Public Work Program, which engages eligible households with able-bodied adults in community-based projects. And the Temporary Support Program, which temporarily shifts pregnant and lactating mothers or caregivers of malnourished children from the Public Work Program to

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<sup>212</sup> Federal Democratic Republic) of Ethiopia, Agricultural Development-Led Industrialization (ADLI) Strategy (1996).

<sup>213</sup> Belayneh Bogale, "Analyses of Agricultural Development led Industrialization (ADLI) Policy's Effectiveness in Ethiopia," (2015 ) p 209 available at:

[https://www.researchgate.net/publication/350524805\\_Analyses\\_of\\_Agricultural\\_Development\\_led\\_Industrialization\\_ADLI\\_Policy's\\_Effectiveness\\_in\\_Ethiopia](https://www.researchgate.net/publication/350524805_Analyses_of_Agricultural_Development_led_Industrialization_ADLI_Policy's_Effectiveness_in_Ethiopia). (last accessed 20/06/2023)

<sup>214</sup> Logan Cochrane and Y. Tamiru, "Ethiopia's productive safety net program: power, politics and practice," *Journal of International Development* 28, no. 5 (2016): 649-665.

<sup>215</sup> Amdissa Teshome, "Agriculture, Growth and Poverty Reduction in Ethiopia: Policy Processes around the New PRSP (PASDEP)," *Research paper r 004* (2006). p 16-18

receive additional assistance.<sup>216</sup> Over time, the PSNP has undergone various phases and revisions to improve its effectiveness in reducing poverty and building resilience among vulnerable households. Through these efforts, the program significantly contributes to ensuring food security and improving the livelihoods of those facing chronic food insecurity in Ethiopia.

The 2018 Food and Nutrition Policy which aims to ensure food and nutrition security clearly states that: “Attaining food and nutrition security is a constitutional and human right of Ethiopians, and as such, the Ethiopian government bears duty for ensuring that its citizens are food and nutrition secure.”<sup>217</sup> One of its food and nutrition policy directions is the provision of timely and appropriate food and nutrition emergency response for natural and manmade disasters. This includes enhancing the state’s capacity to successfully undertake early warning and preparedness, timely emergency response, and rehabilitation during natural and manmade disasters which is essential to significantly reduce both short and long-term consequences of food and nutrition emergencies.<sup>218</sup> Overall, the policy objective is strengthening the national capacity to manage natural and manmade food and nutrition emergencies with timely and appropriate responses.<sup>219</sup> In line with this, the government has launched the national food and nutrition strategy (2022-2030) with strategic objectives such as strengthening the national capacity to manage natural and man-made food and nutrition emergencies with timely and appropriate responses, including emergency management for internally displaced persons and refugees.<sup>220</sup>

The Seqota Declaration which was named after one of the areas in Ethiopia severely affected by famine, is the other important national document on the right to adequate food. The declaration is a commitment to address the underlying causes of chronic undernutrition and eradicate stunting among children under 2 years by 2030.<sup>221</sup> This multisectoral program involves collaboration among nine different ministries, including Health, Agriculture, Education, Water, Irrigation and Energy, Women, Children, Youth, Transport, Finance, and Culture and Tourism Ministers. The primary objective of the Declaration is to eliminate stunting in children under the age of two by 2030.<sup>222</sup> To achieve this objective, the declaration

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<sup>216</sup> Ministry of Agriculture and Rural Development (MoARD), Safety Net Implementation Manual (Addis Ababa, 2004).

<sup>217</sup> Food and Nutrition Policy of Ethiopian (n 83) 3.

<sup>218</sup> Ibid 16

<sup>219</sup> Ibid

<sup>220</sup> Federal Democratic Republic of Ethiopia, National Food and Nutrition Strategy (2021).

<sup>221</sup> Federal Democratic Republic of Ethiopia, 'Seqota Declaration' (issued on 15th July 2015).

<sup>222</sup> Ibid

has developed an innovative investment plan with ten strategic objectives. One of these objectives, called Strategic Objective 2, focuses on ensuring 100% access to adequate food throughout the year.<sup>223</sup> All stakeholders involved in the declaration contribute their resources and efforts towards achieving this objective, utilizing a common planning framework. Therefore, by prioritizing access to adequate food as a strategic objective, the Seqota Declaration recognizes the crucial role of nutrition in early childhood development and aims to address the issue of chronic undernutrition comprehensively.

Growth and Transformation Plan (GTP II): In the GTPII food security was a crucial aspect addressed. Among other things, the plan recognizes the importance of ensuring food security by enabling chronically food-insecure households to participate in the PSNP and engage in asset-building activities, facilitating their smooth transition and accelerated graduation. The key implementation policies under GTP II are focused on food security, disaster prevention, and preparedness.<sup>224</sup> This involves enhancing the capacity of contingent food stocks, improving early warning systems, and maintaining sufficient reserves of non-food items for emergencies. Crop and livestock improvement efforts are also emphasized within GTP II. Besides, emphasis is placed on ensuring household food security, accessible maternal and childcare health services, and the creation of a healthy environment. These comprehensive strategies and policies under GTP II reflect Ethiopia's commitment to addressing food security and its recognition of the critical link between nutrition, health, and overall development.

As a successor of the GTPII and in alignment with the homegrown economic reform agenda, the government has launched a new development plan titled “Ten Years Development Plan: A Pathway to Prosperity 2021-2030.”<sup>225</sup> This ambitious development plan sets a long-term vision of making Ethiopian an African “Beacon of Prosperity.” In the development plan ensuring food security is a critical aspect of the overall development agenda. Among others, the key component of the economic sector plan is Agricultural Development, which seeks to achieve several objectives including the elevation of the incomes and livelihoods of farmers and pastoralists to eradicate poverty by enhancing the productivity. Additionally, the plan emphasizes the importance of modernizing agriculture to reshape the country's economy, meeting the population's nutritional needs, and providing raw materials for the industrial sector.<sup>226</sup> Moreover, the justice and public services development plan sets the full realization

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<sup>223</sup> Ibid

<sup>224</sup> Federal Democratic Republic of Ethiopia, Growth and Transformation Plan II (GTP II) (2015/16-2019/20).

<sup>225</sup> Federal Democratic Republic of Ethiopia, Planning and Development Commission, the Ten Years Development Plan A pathway to Prosperity, 2021-2030, (Ten Years Development Plan)

<sup>226</sup> Ibid 5.1

of all human rights as the main target. According to this plan, the main objective for the next ten years (2020/21-2029/30) is to increase the implementation of international human rights conventions to 100%.<sup>227</sup> This commitment underscores the government's dedication to upholding human rights and fostering a just and equitable society.

The development plan also acknowledges and addresses the shortcomings of its predecessor, GTPII. Specifically, it recognizes that development support and services in emerging regions and pastoral areas are inadequate.<sup>228</sup> It outlines several challenges, including the lack of development initiatives that are tailored to the unique agroecology of pastoral regions, limited access to resources that can enhance production and productivity, and shortages of water and fodder for animals.<sup>229</sup> Additionally, there are underdeveloped market outlets for animal products and the worsening impacts of climate change and recurrent droughts.<sup>230</sup> The development plan states that, due to the absence of a pastoral area development policy, prior economic and social activities in pastoral societies lacked a well-researched and planned direction for sustainability.<sup>231</sup> To address these, it underlines the need to improve the livestock resources by providing high-quality veterinary services, enhancing livestock species, advancing pastoral research, expanding access to animal feed and pasture, increasing market opportunities, and supplying necessary inputs.<sup>232</sup> This multifaceted approach aims to support pastoralist communities and improve their livelihoods.

In addition to the acknowledgement of the shortcomings of the previous development plan in pastoral areas in the national development plan, recently Minister of Irrigation and Lowland Areas development was established through Proclamation No, 1263/2021. The main objective of this initiative is to bridge the gap between water/energy infrastructure and the required agricultural productivity to achieve food sovereignty, food security, and the improvement of the livelihood of the population in lowland areas.<sup>233</sup> The Federal government has also launched a project called Pastoral and Agro-Pastoral Livelihoods Resilience Project (LLRP).<sup>234</sup> The project is an integrated and comprehensive development program planned to

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<sup>227</sup> Ibid.

<sup>228</sup> Ibid 12.2.

<sup>229</sup> Ibid

<sup>230</sup> Ibid

<sup>231</sup> Ibid

<sup>232</sup> Ibid

<sup>233</sup> Minister of Irrigation and Lowland Area Development, available at:

[https://www.mills.gov.et/about/#:~:text=The%20Ministry%20of%20Irrigation%20and%20Lowlands%20\(MILLS\)%20is%20a%20newly,infrastructures%20and%20required%20agricultural%20productivity](https://www.mills.gov.et/about/#:~:text=The%20Ministry%20of%20Irrigation%20and%20Lowlands%20(MILLS)%20is%20a%20newly,infrastructures%20and%20required%20agricultural%20productivity), (last accessed 20, 10, 2023).

<sup>234</sup> Ministry of Peace, The Federal Democratic Republic of Ethiopia, Lowland Livelihood Resilience Project (LLRP), Environmental and Social Management Framework (ESMF) (Final Report, Addis Ababa-Ethiopia,

be implemented by the Federal Democratic Republic of Ethiopia, the International Development Association (IDA), and the International Fund for Agricultural Development. It targets selected woredas of Afar, Somali, Southern Nations Nationalities and People's Region, Oromia, Benshangul Gumuz and Gambella regions based on woreda-selection criteria. The objective of the project is to improve Livelihood Resilience of Pastoral and Agro-Pastoral Communities in Ethiopia.

In addition to the aforementioned development policies and strategies, the country has adopted the National Policy and Strategy on Disaster Risk Management.<sup>235</sup> One specific objective of this policy and strategy is to save lives, protect livelihoods, and ensure that all disaster-affected populations receive recovery and rehabilitation assistance.<sup>236</sup> Ultimately, the policy places a paramount focus on the protection of human life, with the commitment that no lives should be lost due to a lack or shortage of relief assistance during disasters.<sup>237</sup> The policy and strategy highlight the importance of forecasting hazards, analyzing risks, and implementing early preventive actions to strengthen the capability for timely hazard forecasting and response.<sup>238</sup> It also underscores the necessity of establishing a mechanism for the official declaration of a disaster based on early warning and disaster assessment information. Furthermore, it recognizes the need to strengthen international cooperation through disaster risk management-related international, regional, and sub-regional laws, directives, and agreements ratified by the country.<sup>239</sup>

To comprehensively implement and achieve the goals outlined in the National Disaster Risk Management Policy and Strategy, the government enacted the “National Disaster Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015.”<sup>240</sup> Accordingly, the regulation establishes the National Disaster Risk Management Commission. The commission is accountable to the Prime Minister and structured to include a DRM Council chaired by the Prime Minister, a Commissioner, a Deputy Commissioner, and the necessary staff.<sup>241</sup> The DRM Council provides overall guidance for the implementation of the National Disaster Risk Management Policy and Strategy, monitors and evaluates its

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February 2019) available at: [https://www.mofed.gov.et/media/filer\\_public/ef/d2/efd20749-39cf-4e30-a1cb-f51ffeccc00f/final\\_llrp\\_esmf\\_032019-1.pdf](https://www.mofed.gov.et/media/filer_public/ef/d2/efd20749-39cf-4e30-a1cb-f51ffeccc00f/final_llrp_esmf_032019-1.pdf) (last accessed 22, 10, 2023).

<sup>235</sup> The Federal Democratic Republic of Ethiopia, the National policy and strategy on disaster risk management, July 2012 Addis Ababa, 2.3.1.

<sup>236</sup> Ibid 2.3.2.2.

<sup>237</sup> Ibid 4. (g)

<sup>238</sup> Ibid 4. (f)

<sup>239</sup> Ibid 3.8

<sup>240</sup> National Disaster Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015 Article 4 (1)

<sup>241</sup> Ibid art 3 (2) and 7 (2)

implementation, and makes necessary revisions. It ensures that preparedness measures are in place to respond to disasters at all levels and communicates the occurrences of disaster to the public and initiates disaster response activities upon official declaration.<sup>242</sup> Additionally, the regulation requires the DRM Commission to conduct regular and planned simulation exercises to assess emergency response preparedness, including contingency plans.<sup>243</sup> This is to ensure that the effectiveness of the existing system is tested systematically and planned in advance, enabling corrective measures to be taken as needed.

Overall, irrespective of their specific objectives and varying degrees of effectiveness, all the policies and strategies discussed above encompass the concept of food security and the aim of ensuring the availability of food for all individuals across the country. This is also in line with the constitutional provision on national policy and objectives, which strives to achieve food accessibility for all Ethiopians. Consequently, alongside the ratified international treaties and the constitutional recognition of socioeconomic rights, these national policies and strategies demonstrate the acknowledgment of the right to adequate food as a fundamental human right. It also signifies the state's willingness to fulfill its obligations in realizing the right to adequate food, even in times of natural or man-made emergencies. Above and beyond, these commitments can serve as a basis for assessing the extent to which the state has fulfilled its obligations in realizing the right to adequate food for pastoralist communities in drought situations in the study area.

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<sup>242</sup> Ibid art 9 (1) (3) (5) (6)

<sup>243</sup> Ibid art 6 (9)

## CHAPTER FOUR

### 4. FINDINGS AND DISCUSSIONS

#### 4.1. Introduction

Building upon the discussions in the preceding chapters regarding the core components of the right to adequate food and the nature of state obligations towards its realization, this chapter presents the findings and discussions on the current status of the right to adequate food in a study area. This analysis is based on data collected between February 19–28, 2023, from Dubluk district in the Borana Zone of the Oromia Regional National State through in-depth and key informant interviews, FGDs, observations, and document review. The chapter is organized into three sections. The first section analyzes the status of the realization of the right to adequate food in the study area. Subsections in this section provide the findings and discussion related to the availability, adequacy, and accessibility of food in the study area. The subsequent section goes into detail regarding whether and the degree to which the government has fulfilled its obligations in realizing the right to adequate food for pastoralist communities during drought situations in the study area. The final section discusses the findings on the factors affecting the realization of the right to adequate food in the study area.

Due to the sensitive nature of the issue and to maintain confidentiality, the participants remain nameless. Participants' identities are protected from disclosure and remain anonymous. To this end, the data were presented in an aggregate fashion by providing codes that represent the participants. For instance, participants in FGDs are represented by FGD-I and FGD-II, and the interviewees (in-depth and key-informant interviewees) are represented by IDP: I, IDP: II..., and KI: 1, KI: II...etc.

#### 4.2. The Status of the Realization of the Right to Adequate Food of Pastoralist Communities in Drought Situation in the Study Area

The Borana Zone is one of the 23 Zones in the Oromia National Regional State. The Zone consists of 13 Districts and 2 town administrations. According to data obtained from the Borana Zone rapid assessment report, the total population of the zone is estimated to be 1.7 Million out of this 91% of people reside in rural areas.<sup>244</sup> The weather condition in the zone is 80% arid and 20% semi-arid. The Zone has bi-modal rainfalls: Ganna (March-May) which contributes 70% and Hagayya (September-November) which contributes 30% of crop and livestock productivity. The most dominant livelihood in the Zone is pastoralism, with a total

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<sup>244</sup> Borana Zone Rapid Assessment Report, February 14, 2023

livestock population of about 7.2 Million.<sup>245</sup> Thus, pastoralism is means of procurement of the pastoralist community in normal circumstances.

Regarding the current status of the realization of the right to adequate food in the study area, the data obtained both from the zone and Woreda administration indicates that the pastoralist communities are currently facing extreme food insecurity as a result of the failure of rain for five consecutive seasons.<sup>246</sup> The report further states that the FEWSNET weather forecasts indicate a higher likelihood that the upcoming Ganna rainy season (March-May 2023) will also be below-average, making it an unprecedented six consecutive failed rainy seasons in addition to the five back-to-back failed rainy seasons since 2020. It characterizes the current drought as “The worst in the last 40 years.” In addition to this, the data obtained from the zone administration office indicates that Borena is one of the pastoral zones of the Oromia region which is characterized by chronic food insecurity and poverty.<sup>247</sup>

Dubluk Woreda (the study area) is one of the drought-stricken areas in the Zone. In the Woreda, 13 Kebeles are affected by the drought, requiring assistance for a total of 28,489 livestock to survive, while 41,557 have unfortunately perished.<sup>248</sup> Additionally, 8,743 livestock were sold due to the fear of prolonged drought. As a result of this, a significant number of people have been displaced from their homes, spanning different Kebeles of the woreda and other Woredas in the zone, including Dhasi, Wachile, Arero, and Dilo. Furthermore, aside from the IDP camp in Dubluk town, there are other IDP camps in various Kebeles of the woreda, such as Higo, Anole, Gale, and Gobso, bringing the total number of IDP households in the woreda to 8,989, encompassing 53,934 individuals and their families.<sup>249</sup> The Dubluk IDP Camp stands as the largest and officially recognized camp in the Borana Zone, accommodating 7,396 households, totaling 24,845 people, along with their families.<sup>250</sup>

With the preceding information providing a broad context, the subsequent section presents the findings and discussion on the current status of the realization of the right to adequate food in the study area. The discussion primarily focuses on the normative contents of the right to adequate food: availability, adequacy, and accessibility which collectively serve as a threshold to assess the realization of the right in the study area.

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<sup>245</sup> Ibid

<sup>246</sup> Borana Drought situation update 2023, (a document obtained from the Zone administration office)

<sup>247</sup> Borana Zone, Overview of the Drought Situation, December 14, 2022

<sup>248</sup> The Drought Situation Report of the Dubluk Woreda 2023

<sup>249</sup> Ibid

<sup>250</sup> Ibid

### 4.3. Availability of Food in the Study Area

As briefly discussed in chapter two the right to adequate food is primarily the right to feed oneself with dignity. Thus, food is available if an individual has either direct access to productive land and natural resource or purchase it from a well-functioning market.

In the study area, the data from study participants and document review shows that, in normal circumstances, livestock is the means to feed oneself as the Borana pastoralist is heavily reliant on livestock for income, food, and nutrition.<sup>251</sup> Accordingly, the pastoralist community feeds themselves either from the dairy products obtained from their livestock or from the money obtained from selling their livestock and the dairy products. Nevertheless, as already indicated above, missing five consecutive rainy seasons in the Borana Zone causes severe drought as a result of which the community lost their ability to feed themselves.

The data from FGD II conducted with men indicated that food is not available because there is no productive land and livestock due to drought. Also, since all wild animals and natural resources are affected by drought there is no possibility for more hunting and gathering that assures food availability.<sup>252</sup> The participants mentioned that the drought causes massive animal deaths, disrupts community networks and relationships, and causes displacement and mobility, disconnecting relatives and friends and all these affected the availability of food.<sup>253</sup>

In addition to the loss of livestock in the woreda, the data obtained from the woreda administration indicates that they did not receive the expected amount of rainfall in Hagaya for agricultural production. The report also mentions that although there was preparation regarding agriculture for which 1690 hectares of land were prepared for Hagaya rain (September-November 2022), out of these, 1039 hectares of land was cultivated but the yield was zero or none.<sup>254</sup> In describing the availability of food in the study area, one study participant stated that:

*“During this time, thinking about food quality and quantity is impossible. Individuals are unable to afford meals for their daily diet. Since food is not available, nothing is accessible to the drought-affected community”<sup>255</sup>*

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<sup>251</sup> Borana Zone Rapid Assessment Report (n 244)

<sup>252</sup> Focus Group Discussion Participant FGD II, February 21, 2023.

<sup>253</sup> Ibid

<sup>254</sup> The drought situation report of the Dubluck woreda, (n 248)

<sup>255</sup> In-depth interview (P: I) February 23, 2023.

Therefore, the pastoralist communities has lost direct access to productive land and natural resources or the ability to purchase food from the market due to the persistent drought. Particularly in the IDP camp, the data from FGD II conducted and the interview, as well as my observation, confirmed that there is emergency food aid primarily from NGOs working in the area. The finding on its adequacy and availability is presented as follow.

#### **4.4. Adequacy of Food in the Study Area**

As per the definition of adequacy provided by the ESCR Committee in its General Comment 12 which is briefly discussed in Chapter Two, for food to be considered adequate it must fulfill three core elements. The first core element of adequacy is dietary needs which is concerned with the nutrients in food that are necessary for physical and mental growth, development, maintenance, and physical activity.<sup>256</sup> However, the emergency food provided for the IDPs in the study area lacks the necessary dietary needs as a result of which the IDPs in general and the vulnerable groups such as children, women, elders, and breastfeeding, and lactating mothers are suffering from under nutrition. Especially stunting and malnutrition in children is so common that my observation has also confirmed. Retreating this fact one key informant from the Woreda Health Bureau (KI: III) stated:

*“As a health bureau, we identified more than 100 children under five who are suffering from acute malnutrition in Dubluk IDPs Camp. Also, in our district, I observed many stunted children and currently we are treating around 54 individuals who are in hunger crisis at Woreda Health Center. So, nothing is more than this to show the inadequacy of the food in terms of dietary needs.”<sup>257</sup>*

Correspondingly, one key informant from NGO (K: II) explained that: *“During this perennial drought, many children are suffering from malnutrition and are born underweight, exposed to school dropout and early marriage.”<sup>258</sup>* Thus, the finding reveals that the emergency food provided for the pastoralists in drought situations does not fulfill the dietary needs of the victims of drought which is the first core element of adequacy. In addition to being the core element of adequacy, as the ESCR Committee affirmed dietary needs vary according to an individual's age, gender, occupation, and other factors.<sup>259</sup> Contrary to this, the data obtained from the participants as well as my observation confirmed that the emergency food provided

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<sup>256</sup> General Comment 12, (n 6) par 8-11.

<sup>257</sup> Interview with Dubluk Woreda Health Officer Keyinformant, KI: III, February 25, 2023.

<sup>258</sup> Interview with key-informant from GOAL Ethiopia, Boran office, NGO (K: II) February 28, 2023

<sup>259</sup> General Comment 12, (n 6) par 8-11.

for the victims of drought in the study area does not take age, gender, and any other factors into consideration. Consequently, individual who needs special dietary needs such as children, elders, and pregnant and lactating women are in health crises that threaten their life due to the absence of nutritious food in their daily food intake.

For instance, one study participant from the Health Office (KI: III) stated:

*“During this drought, children are suffering from severe acute malnutrition, because the available foods are not productive (mostly dry grains and wheat). Furthermore, mothers are unable to provide their infants with nutrition-rich breast milk to support their growth and development. Additionally, maternal malnutrition during pregnancy is increasing the risk of maternal mortality and adversely impacting both birth and neonatal outcomes. On top of this, in this IDPs Camp, many families do not get a tent and this exposes various women in confinement periods to health problems.”<sup>260</sup>*

This is in contradiction with the obligation of the state to eliminate discrimination against women in the field of healthcare which among other things requires states to ensure women appropriate service in connection with pregnancy, confinement, and the post-natal period, granting free service where necessary as well as adequate nutrition during pregnancy and lactation.<sup>261</sup> While explaining the inadequacy of food in the study area, one study participant from a drought-displaced family (P: V) stated “Forget about the adequate food, we did not get one meal a day that saved us from dying. So, we are not in a status of demanding productive food. We need only what will save our lives”<sup>262</sup> Moreover, the data obtained both from the in-depth interview and FGD with men and women confirmed the inadequacy of the food provided in meeting the dietary needs of all particularly the most vulnerable ones. They repeatedly mentioned that the elders are not able to intake the food provided no matter how hungry they are. In this case, one key informant from the Health Bureau (K: III) explained that:

*“In normal circumstances, elders have special attention and care in the community often consuming milk and yogurt. Because, as individuals age biological changes manifest in declining health, physical well-being, and increased susceptibility to diseases. Nevertheless, the ongoing drought has led to a significant decline in both the quantity and quality of available food. In addition to this, the current emergency food distribution protocol both by the government and NGOs excludes the elderly. The emergency food provisions target only children under five, pregnant women, and breastfeeding mothers.*

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<sup>260</sup> Interview with Dubluk Woreda Health Officer Keyinformant, KI: III, (n 257)

<sup>261</sup> CEDAW (n 8) art 12(2).

<sup>262</sup> In-depth interview (P: V), February 19, 2023.

*However, the emergency food provided primarily consists of dry grains and wheat, which are difficult for the elderly to chew or digest. But, despite our repeated proposal to higher officials to include the elderly in emergency nutrition programs, no action was taken. As a result, the risk of malnutrition and mortality among the elderly has increased.*<sup>263</sup>

The inadequacy of the emergency in terms of dietary need is also confirmed by the finding of the EHRC drought monitoring report which mentions that the food provided to the victims of drought is not age, gender, and diet specific.<sup>264</sup> The focus is only on households regardless of age differences. Breastfeeding mothers and children in the family receive the same quality and quantity of food.<sup>265</sup> Hence, the data obtained from in-depth interviews with IDPs, FGD, insights from key informants, as well as my observations confirmed the inadequacy of food provided to the IDPs in the study area in meeting dietary needs, the first core element of adequacy.

Regarding the two remaining core elements of adequacy, which involve ensuring that the provided food is free from adverse substances and is culturally acceptable, the data obtained from study participants confirmed that there are no provisions for food containing adverse substances or culturally unacceptable. For example, data from FGD II, with men, indicates that the food provided, although primarily composed of dry grains and wheat, aligns with their habits. None of these food items are perceived as taboo because, due to the prevailing drought, they had to sell their livestock and purchase grains and wheat from the market.<sup>266</sup> However, they underline that it is not a cultural food. This is attributed to the fact that traditional Borana foods primarily consist of dairy products like milk, meat, yogurt, and butter. Moreover, their livestock holds great significance as a symbol of pride and social status, and the loss of their livestock and dairy products is perceived as a loss of their culture and everything associated with it.

In addition to the above-mentioned core elements of adequacy, sustainability is also an intrinsic element of adequacy, referring to the long-term availability and accessibility of food. In this regard, the finding shows that in the study area, people get food in rounds that take place at different time intervals.<sup>267</sup> Besides, emergency food is not reliable as it is provided by NGOs according to their plan and budget.<sup>268</sup> Above all, the finding shows that the food supply

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<sup>263</sup> Interview with Dubluk Woreda Health Officer Keyinformant, KI: III, (n 254)

<sup>264</sup> Ethiopian Human Rights Commission Drought Monitoring Report in Oromia and Somale Region, July 2023, p 18 (My translation from Amharic)

<sup>265</sup> Ibid

<sup>266</sup> Focus Group Discussion Participant FGD II, (n 252)

<sup>267</sup> Focus Group Discussion FGD I, February 22, 2023.

<sup>268</sup> Interview with key-informant from GOAL Ethiopia, Boran office, NGO (K: II) (n 258)

is incompatible with the number of people in need which in turn affects the sustainability of the emergency food provided this will be discussed in detail in the subsequent section.

#### **4.5. Accessibility of Food in the Study Area**

The third normative content to determine the adequacy of food is accessibility. Under General Comment 12 accessibility encompasses both physical and economic accessibility to adequate food.<sup>269</sup> Hence, the findings and discussion on the accessibility of food in the study area are presented in this term.

As already stated in the preceding discussions, the data obtained from study participants and reports from the woreda indicate that economic accessibility of food is already compromised due to the drought, which lead to the complete loss of their livestock, which serves as their primary means of subsistence. Furthermore, the report from the woreda administration indicates that even a small number of pastoralists who relocated to the IDPs camp with their cattle were compelled to sell their livestock.<sup>270</sup> The decision to sell their cattle was primarily influenced by the absence of pasture for the livestock and the limited space available in the camp, which resulted in the death of some cattle.<sup>271</sup> However, even after selling the surviving cattle, the proceeds were insufficient to buy an adequate amount of grain to support their entire family.<sup>272</sup> This situation was further worsened by the decreasing productivity and market value of their remaining livestock, along with the prevailing inflation in the prices of food items.<sup>273</sup> Therefore, the pastoralist communities in the study area has lost the economic accessibility to adequate due to the complete lose of their livestock.

Regarding the physical accessibility of food, the study participants stated that food is not easily accessible due to the various procedures they must follow to obtain emergency food aid. This includes the registration process and the need to organize themselves into teams to receive the relief food.<sup>274</sup> On top of this, emergency food is distributed in rounds, and some individuals have not received any food items even after staying in the IDPs camp for more than a year. For instance, one participant from the in-depth interview (P: IV) stated that:

*“Since we were displaced due to drought we counted one year and three months. But I cannot recall a single day that I received food in my name. Now*

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<sup>269</sup> General Comment 12, (n 6) par 13

<sup>270</sup> Interview with Woreda deputy administrative officer (K: IV), February 26, 2023.

<sup>271</sup> Ibid

<sup>272</sup> The drought situation report of the Dubluck woreda, (n 257)

<sup>273</sup> Interview with key-informant from GOAL Ethiopia, Boran office, NGO (K: II) (n 258)

<sup>274</sup> Focus Group Discussion Participant FGD I, (n 267)

*our concern is not about getting adequate standard of living, but worrying about survival.*<sup>275</sup>

The finding also reveals that accessibility of food in the study area remains a significant challenge due to the disparity between the number of people in need and the available emergency food supply. Participants pointed out that because not all families in the IDPs camp receive an adequate food supply at any given time, those who do receive emergency relief end up sharing their provisions with other IDPs. However, this sharing often results in everyone going hungry the following day, rendering the initial support somewhat meaningless. Reinforcing this sentiment, a participant from the in-depth interview (P:VIII) stated:

*“I remember a month ago, I received a 12 kg package of gruel (a porridge mix made of grain and legume flours, dried milk, and sugar known as relief food during emergence). This food is provided by NGOs as relief during emergencies. They told me to use it for three months. The reason I received this emergency food was because I have a child, and it's intended as a baby-weaning food. However, I managed to finish the entire three-month supply within just two days. The reason for this was that the emergency food hadn't reached all the families affected by the drought. My relatives, fellow villagers, and friends were suffering from severe hunger, so I shared the food with them. Our culture places a strong emphasis on communalism and the principle of sharing and caring for one another. As a result, I ended up with nothing, and I'm still experiencing severe hunger.”*<sup>276</sup>

In explaining the accessibility of food the ESCR committee emphasizes that special attention and priority consideration should be given to victims of natural disasters, people living in disaster-prone areas, and disadvantaged groups.<sup>277</sup> Contrary to this, in the study area due to lack of priority consideration, the persistent and recurring drought has inflicted a humanitarian crisis on all community members, resulting in the deterioration of their lives and livelihoods. Although the drought has affected all segments of the population, the finding indicates that it has posed additional challenges for the realization of the right to adequate food to the most vulnerable groups, including children, women (especially pregnant and lactating mothers), the elderly, and people with disabilities.<sup>278</sup> One key informant from the Labour and Social Affairs Office (K: VI) described the circumstances as follows:

*”Due to their physical status, the elderly and people with disabilities are the most vulnerable during this drought. This group is already depending on their immediate families to get their food. But now those who supported them earlier*

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<sup>275</sup> In-depth interview Participant (P: IV)February 23, 2023.

<sup>276</sup> In-depth interview Participant (P: VIII)February 19, 2023.

<sup>277</sup> General Comment 12, (n 6) par 13.

<sup>278</sup> Focus Group Discussion Participant FGD I, (n 267)

*are in a food crisis. They left without support, and they are not capable of working to get their food.*<sup>279</sup>

In addition to the above-mentioned emphasis of the ESCR Committee on the obligation of the state to prioritize and give special attention to ensuring the accessibility of food for the most vulnerable groups, various international human rights instruments, impose a specific and additional obligation on the state concerning the realization of the human rights of these vulnerable groups. For example, Article 15 of the Maputo Protocol mandates that states not only provide access to clean water, domestic fuel, and the means to produce nutritious food but also establish an adequate system of supply and storage to ensure food security.<sup>280</sup> Nevertheless, the data obtained from the study area indicates the nonfulfillment of this obligation. A key informant from the Labour and Social Affairs Office (K: VI) reiterated this point by stating:

*“This drought reinforces the gender division of labor. To survive the family, many women are engaging in different works that need physical force. For instance, they sell charcoal, firewood, and construction wood. They do these without having breakfast, lunch, and dinner.”*<sup>281</sup>

Correspondingly, one key informant from NGO (K: II) explained that:

*“During this perennial drought, children are highly affected, because many children are suffering from malnutrition and are born underweight, exposed to school dropout, and early marriage. Also, since parents leave their homes in search of daily labor to get food, most children are left without supervision and appropriate socialization.”*<sup>282</sup>

Therefore, the lack of special attention and priority consideration has made vulnerable groups such as women and children doubly victimized by the drought. Besides, the burden of feeding the family has disproportionately fall on women and children. They are suffering from malnutrition and exposed to early marriage to find means of survival. In a nutshell, under international human rights instruments discussed in the preceding chapters, the right to access food is said to be realized if every man, woman, and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.<sup>283</sup>

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<sup>279</sup> Interview with key-informant from the Labour and Social Affairs Office (K: VI), February 25, 2023

<sup>280</sup> Maputo Protocol (n 14) art 15. 15 (a) (b)

<sup>281</sup> Interview with key-informant from the Labour and Social Affairs Office, (n 279)

<sup>282</sup> Interview with key-informant from GOAL Ethiopia, Boran office, NGO (K: II) (n 258)

<sup>283</sup> General Comment 12, (n 6) par 6.

However, the finding reveals that the severe drought in the study area has caused complete loss of livestock leaving the pastoralists unable to feed themselves. As a result, except for the emergency food aid, food is virtually unavailable in the study area. Even the emergency food provided to the victims of drought in the IDPs camp is inadequate in terms of dietary needs and sustainability because it lacks the necessary nutrients and consistency in provision. Additionally, accessibility of this food remains an issue due to the disparity between the food supply and the number of individuals in need. Besides, due to a lack of special attention and priority consideration vulnerable groups such as children, pregnant and lactating women as well as the elderly are suffering from malnutrition and hunger crises. Due to the aforementioned reasons, in the study area the right to adequate food is not realized as every man, woman, and child, alone or in a community with others, has no physical and economic access at all times to adequate food or means for its procurement.

#### **4.6. The degree to which the government is effectively discharging its obligations towards the realization of the right to adequate food in the study area**

As already established in previous chapters the right to adequate food is primarily the right to feed oneself with dignity. However, individuals must live in conditions that allow them to either produce or purchase food. The findings of this study show that food is not available because there is no productive land and livestock due to drought. As briefly discussed under the obligation of the state toward the realization of the right to adequate food in chapter two, in exceptional scenarios, such as natural disasters or armed conflicts, the government has to directly provide food to individuals who are unable to access it.<sup>284</sup> The Borana Pastoralists in general and the IDPs in Dubluk camp are not in a position to either produce or purchase food due to the drought which caused a complete loss of their livestock which is their livelihood. Thus, the following paragraph presents the findings of my research on whether and the degree to which the government has discharged its obligation of directly providing food to victims of drought in the study area.

The data obtained from the Woreda administration regarding the direct provision of food to the victims of drought in the study area indicates that with the support from the Zone administration to the Woreda emergency relief has been provided for 24, 174 families in two rounds.<sup>285</sup> According to the report obtained from the same office, in the first round, 3,626.1 quintals of wheat and 362.61 CSB were distributed. In the second round although the same

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<sup>284</sup> Ibid par 6.

<sup>285</sup> Key informant Interview with *Buusaa-gonofaa* worker (KI: V) February 25, 2023.

amount was planned only 2693 quintals of wheat and 112 of CSB were distributed. In total, they obtained 7252 quintals of wheat and 474.6 quintals of CSB from the Zone Administration as emergency support.<sup>286</sup> At the Woreda level, the report indicates that on 15-16/05/2015 50 quintals of Corn Flour, 600 Liters of Oil, and 528 Packs of Milk were distributed to 200 elders by withdrawing 300,000 birr from the FOE budget.<sup>287</sup> The district administration also mentioned that they received support from different individuals and organizations.<sup>288</sup>

The above-mentioned figure regarding support provided both by Woreda and Zone administration is the support made to the Woreda (for the 13 kebeles). Regarding the IDPs in the study area, the data obtained from study participants as well as the report obtained from the Woreda administration confirms the provision of non-food items to the IDPs. For instance, the list of activities undertaken by the government to support the IDPs includes the allocation of 300 square meters for the IDPs camp to host the pastoralists, the formation of Zonal and Woreda team organizations to follow up the IDPs cases and the establishment of the school through UNICEF in the IDP camp for which teachers were assigned by the Woreda Education Office.<sup>289</sup> Reiterating this assertion one key informant from (K: VI) stated:

*“I’m from the Labour and Social Affairs office of the Woreda, and I’m daily engaging with the IDPs in this camp to make an assessment of the hunger crisis and coordinate with humanitarian actors. So, nobody knows more than me about the support given to these IDPs. Honestly speaking, I didn’t see any support related to food from the government side. The support from the government is an ambulance to take people in severe conditions to health stations and education services to minimize school dropouts linked to drought, limited water, and health facilities. These health facilities are more given for people in emergencies. There are no psychosocial supports and sufficient health facilities for all IDPs. The rest are forgotten. All food items are from NGOs. Thus, the response taken by the government to manage hunger-related crises is ineffective, limited, and poorly coordinated.”<sup>290</sup>*

In explaining the degree to which the government is discharging its obligation towards the realization of the right to adequate food in the study area, one key informant from NGO (K: II) stated that, “I observed the government is not proactive because proactive drought mitigation measures are not taken. The government is now starting to show signs of

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<sup>286</sup> The drought situation report of the Dubluk woreda, (n 248)

<sup>287</sup> Ibid

<sup>288</sup> Interview with Woreda deputy administrative officer (K: IV), (n 270)

<sup>289</sup> The drought situation report of the Dubluk woreda, (n 257)

<sup>290</sup> Interview with key-informant from the Labour and Social Affairs Office, (K: VI), (n 278)

intervention after the deaths were reported by some individuals on social media.<sup>291</sup> Similarly, a key informant from Labour and Social Affairs (K: VI) stated, “After the occurrence of this drought, the number of people suffering from malnutrition is increasing from time to time. There is also a health deterioration due to hunger. This shows the poor intervention from the government side to manage the hunger crisis.”<sup>292</sup>

The study participants from the IDP camp explain the situation bitterly and hopelessly. For instance, one participant from the in-depth interview (P: VII) stated that:

*“Before our displacement, even though there was no clean water, we were not worried about the drinking water. In addition to the food crisis, now we are suffering from thirst. So, we have now nowhere to go and nobody is realizing our issues. Our option is to wait for our death day. Death is a normal state for all people, but death from hunger is bad and shameful in the country with the government.”*<sup>293</sup>

Furthermore, another study participant from displaced families (P: I) stated that:

*“Hardha bullee bori bullaa malee abdii hin qabnu (our concern is whether we are alive tomorrow, we have no hope at all). Before today, our hope is our clans. Today all are at risk. We have no hope from the government because many people are dying of hunger and suffering from malnutrition in its presence. Since we were displaced and settled in this Camp it's about one year and three months. Our suffering has not stopped yet. So, we are so pessimistic about our future life.”*<sup>294</sup>

In addition to the above-discussed finding of study on the nonfulfillment of the obligation of the state towards the realization of the right to adequate food for the IDPs, in a legal sense, the litmus test to determine the fulfillment of this obligation is the presence or absence of hunger. As it has been discussed in Chapter Two, one of the immediate or minimum core obligation of the state regarding the right to adequate food is fulfilling the minimum essential level required to be free from hunger. This is a core obligation that the state should comply-with even in times of natural disasters or other crises. In this regard, the prevalence of hunger in the study area is the fact that all study participants including the government officials and their respective reports is confirmed.

According to the findings of the investigation conducted by the district technical committee obtained from the Dubluk district *Buusaa-gonofaa* office, among the 69,286 population in the

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<sup>291</sup> Interview with key-informant from GOAL Ethiopia, Boran office, NGO (K: II) (n 258)

<sup>292</sup> Interview with key-informant from the Labour and Social Affairs Office, (K: VI), (n 278)

<sup>293</sup> In-depth interview Participant (P: VII) February 19, 2023

<sup>294</sup> In-depth interview Participant (P: I) February 23, 2023.

Woreda, 63,743 are exposed to hunger.<sup>295</sup> Out of this, 37, 297 are obtaining food aid from JEOP/ CARE (NGO). However, including 9124 families which were the beneficiaries of the PSNPS, 14, 025 families are exposed to hunger and need immediate food aid.<sup>296</sup> The prevalence of hunger is so serious that it is evening taking lives. Nevertheless, none of the documents I obtained both from the zone and Woreda administration contains a death report. However, the data I obtained from FGD I and II participants indicates that there are cases of death in the study area. On this matter, one study participant from NGO (K: I) explained that:

*“The death report is not publically disseminated by the government. As NGO workers we are members of the Task Force Committee established at the Zonal level to assess drought crises and react to reports. However, the issue related to death reports is not brought to the discussion, and not sent to regional and federal government. I witnessed this reality with my own eyes. Thus, there were death cases, but since the government is hiding the issues the total death numbers are unknown.”<sup>297</sup>*

In line with the above ideas, one study participant from drought-displaced families (P: II) stated that:

*“In this drought displacement camp last week one elder died due to hunger. He stayed at home for almost two weeks without having food. We all are in the same status; no one can save his life. To your surprise, after he died his family got a little support (grains) from an NGO, and those grains were eaten by awwaaltuu (a group of people that perform a burial). So, the support is too late to save our lives, and we are also waiting for our day to die.”<sup>298</sup>*

Additionally, a study participant from NGO (K: I) explained that:

*“Even though the government is not reporting the deaths related to hunger, I observed from our report (Action Against Hunger Organization) that the death rate of drought-affected pastoralists has decreased. From this one can easily understand there was a death that shifted from its normal stage.”<sup>299</sup>*

The data from FGD I and II participants revealed that due to this hunger, last time one old man from this IDPs Camp committed suicide by dropping himself in the deep well. According the participants, before he committed suicide, he had a heart-wrenching conversation with his children telling them that he could not bear to watch them die from hunger and rather prefer to

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<sup>295</sup> The drought situation report of the Dubluck woreda, (n 248)

<sup>296</sup> Ibid

<sup>297</sup> Interview with key-informant from Action Against Hunger Ethiopia, Boran office, NGO (K: I) February 27,

<sup>298</sup> In-depth interview Participant (P: I), February 24, 2023.

<sup>299</sup> Interview with key-informant from Action Against Hunger Ethiopia, Boran office, NGO (K: I), (n 297)

die before such happened to them.<sup>300</sup> As elaborated by the ESCR Committee in its General Comment 12, violation of the covenant occurs when a State failed to ensure the satisfaction of at a very least, the minimum essential level required to be free from hunger.<sup>301</sup> Therefore, the by not complying with the minimum core obligation the government has violated the right to adequate food of the pastoralist community in a drought situation.

#### **4.6. Factors affecting the realization of the human right to adequate food in the study area**

The findings show that the major factor affecting the realization of the right to adequate food is the severe drought which resulted in the loss of their livestock which is the means of subsistence for the pastoralist community. However, the occurrence of drought is not a sudden phenomenon that hindered the realization of the right to adequate food. The data obtained from the Zone Administration office states that the zone is one of the drought-stricken areas in the country and the effects of the drought have been reported repeatedly throughout history. As per this report, severe drought with complete loss has occurred in the whole Woreda of the Zone in years 1983/84, 1988/89, 2011, 2013/14, and since 2020 till this report is prepared.<sup>302</sup> It has also partially occurred in the year 2015 and 2016.<sup>303</sup>

This fact indicates that the study area is prone to disaster which requires the necessary measures to be taken to minimize the risk of drought including hunger. The current drought has affected the ability of pastoralist communities to feed themselves in dignity shifting the obligation to realize the right to adequate food to the state. Hence, in addition to the above-discussed finding of the research on the absence of the realization of the right to adequate food in the study area, the following paragraph analyzes the findings and discusses various factors affecting the realization of the right to adequate food in the study.

The first factor affecting the realization of the right to adequate food in the study area is the non-compliance of the government with its obligation towards the realization of the right to adequate food in emergencies. Both the binding and nonbinding international instruments require the state to take effective measures to reduce disaster risk, for the protection of people on its territory, infrastructure and another natural asset from the impact of the disaster.<sup>304</sup> More specifically, the Voluntary Guideline on the right to adequate food states that the state

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<sup>300</sup> Focus Group Discussion Participant FGD II (n 252) and FGD II, (n 267)

<sup>301</sup> General Comment 12 (n 6) par 17.

<sup>302</sup> Borana Zone Rapid Assessment Report, (n 244)

<sup>303</sup> Ibid

<sup>304</sup> Hyogo Framework for Action (2005-2015) (n 126) par 13 (b). See also the preamble of the UN convention to combat desertification (n 123)

should take appropriate emergency preparedness measures such as keeping food stock for the acquisition and taking steps to put in place an adequate system for distribution.<sup>305</sup> Similarly, the National Policy and Strategy on Disaster Risk Management, acknowledging the limitations of the existing system, which primarily focuses on saving lives through relief assistance after a disaster has occurred, underscores the need for a proactive approach.<sup>306</sup> It also underlines the need to establish a mechanism for the official declaration of a disaster based on early warning and disaster assessment information. Nonetheless, in the study area, the absence of proactive measure such as keeping food stock for the acquisition has resulted in a serious humanitarian crises demonstrating non-compliance of the state with its obligation.

As already mentioned above, the Borana Zone is one of the drought-stricken areas in the country that requires the undertaking of proactive measures from the government. In contrast, the data obtained from study participants indicates that drought monitoring, early warning, risk assessment, and response to the crisis from the government side are poor. For instance, one key informant NGO (K: I) explained the lack of effective proactive measures as follows: “Early warning can detect the probability of the occurrence of a crisis linked to drought. Also, the severity of the crisis was not evaluated on frequent time steps and there was a lack of timely dissemination of drought early warning.”<sup>307</sup> In addition to this, the non-compliance of the state with this obligation is demonstrated by the finding of the study on non-fulfillment of the minimum core obligation to ensure the right to be free from hunger.

The second factor that affected the realization of the right to adequate food is the absence of the official declaration of the occurrence of drought as an emergency which hindered the realization of the right to adequate food through inter alia international cooperation. For instance, as per article 6 (13) of the Disaster Risk Management Commission Establishment Regulation, following the official declaration of a disaster and upon the decision of the Disaster Risk Management Council, the Commission mobilize resources from domestic and international sources.<sup>308</sup> This shows that the mobilization of resources is conditioned on an official declaration of disaster. While describing the effect of the absence of the official declaration of disaster on the realization of the right to adequate in the study area, one key informant, NGO (K: I) stated that:

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<sup>305</sup> Voluntary Guidelines on the realization of the right to adequate food (n 31). Par 16.7

<sup>306</sup> The federal Democratic Republic of Ethiopia, the National policy and strategy on disaster risk manegament, (n 229) 2.3.1.

<sup>307</sup> Interview with key-informant from Action Against Hunger Ethiopia, Boran office, NGO (K: I), (n 297)

<sup>308</sup> Regulation No. 363/2015 (n 234) art 6 (13)

*“To your surprise, while the people are suffering from hunger many budgets are returning to the donors because the government has not declared a state of emergency and there is no proof to show that the people are dying from hunger due to the absence of a death report. On top of this, sometimes, there is unnecessary intervention from the government on NGO reports. The issue like death reports are not tolerated because there is a political interest and influence from the government. Rather than supporting those affected by hunger and saving the lives of pastoralist communities in drought situations the government mostly emphasizes on political agenda.”<sup>309</sup>*

Added to this, another key informant mentioned the unwillingness of the government to comply with this obligation despite repeated requests from their organization to secure additional funding from donors. The participant, NGO (K: I) elaborated on this by stating:

*“In providing emergency relief including food there is a concept called ‘emergency appeal’ which requires the government to request cooperation from the international community to provide support to the victims of drought. This would have helped us to get an additional budget from our donors to meet the needs of the victims of drought including IDP or would have invited other humanitarian actors to engage in an emergency relief. We have repeatedly requested this, yet the Zone administration always rejects the request mentioning that the situation is under control. But in reality, due to the inadequacy of the support we are contributing from our salary to help our community.”<sup>310</sup>*

The finding of the EHRC drought monitoring report in the Borana zone, confirmed that the failure of the Federal government to declare the state of Emergency has prevented the NGOs from obtaining funds to facilitate the required amount of support from international donors.<sup>311</sup> This demonstrates noncompliance with the obligation under international instruments as well as article 89 (3) and 93 (1) (a) of the FDRE constitution which obliges the government to take measures to avert any natural and manmade disaster and to decree a state of emergency to provide timely assistance to the victims.

Finally, the finding reveals that the absence of prioritization and participation of the community in the planning and implementation of national policies and development agendas is another factor that affected the realization of the right to adequate food. The finding reveals that there is no community participation in matters affecting their life including the provision of humanitarian aid in emergencies. On this matter one, a key informant from NGO (K: II) stated that, “The humanitarian aid is top-down. It does not consider the preference of the

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<sup>309</sup> Interview with key-informant from Action Against Hunger Ethiopia, Boran office, NGO (K: I), (n 297)

<sup>310</sup> Ibid.

<sup>311</sup> Ethiopian Human Rights Commission Drought Monitoring Report in Oromia and Somale Region, (n 264) p 14

community rather it depends on the plan of the donors. Sometimes we provide cash or non-food items while the community is in the state of hunger. This has affected the stability of the accessibility and availability of food.”<sup>312</sup> In addition to this, the study participants raised the multitude of development projects that are taking place at the national level and within the zone as evidence of a lack of prioritization in addressing the problem of pastoralist communities in drought situations. For instance, underscoring the problem associated with the absence of prioritization a key informant, NGO (K: II) stated:

*“While drought-affected pastoralists are dying from hunger, various supports are traveling to the Tigray Region from this zone. Also, after all these hunger-related crises are reported, the government is exporting wheat abroad. So, I realized there are no food supply-related challenges in Ethiopia. The great problem is the problem of giving attention and prioritizing political interest.”<sup>313</sup>*

My observation also confirmed the absence of prioritization of resources in addressing the hunger crises in the study area. One indication of this is that, while the official report at least at the Woreda level states that 63,743 out of 69,286 people in the Woreda are exposed to hunger, the government exported 10 million quintals of wheat on 12 February 2023.<sup>314</sup> From this 1.2 million quintals of wheat are from the Oromia region which includes the Borana Zone where the pastoralist community is experiencing hunger. Therefore, the government's failure to prioritize resources has resulted in a violation of the right to adequate food, which has in turn violated the right to a dignified existence of pastoralist communities, particularly IDPs in the study area.

In addition to the non-fulfilment of the realization of the right to adequate food in the study area, the finding of the research discussed in the subsequent sections indicates the inapplicability of the defense of resource constrain from the government side. In this regard, although article 2 (2) of the ICESCR acknowledges the progressive realization of socio-economic rights, as briefly discussed in chapter two, ensuring the right to be free from hunger is an immediate obligation that applies to all states, regardless of their resources. Accordingly, violation of the covenant occurs when a State fails to ensure the satisfaction of at the very least, the minimum essential level required to be free from hunger.<sup>315</sup>

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<sup>312</sup> Interview with key-informant from GOAL Ethiopia, Boran office, NGO (K: II) (n 258)

<sup>313</sup> Ibid.

<sup>314</sup> Wheat Export Launching Program, Addis Ababa, Walta, February 13, 2023 available at: <https://walmartinfo.com/1-2mln-quintals-of-wheat-from-oromia-region-to-be-exported-this-year/>.

<sup>315</sup> General Comment 12 (n 6) par 17.

In determining whether a state has violated the right to food, the ESCR committee distinguishes between the inability and unwillingness of the state to comply with its obligation.<sup>316</sup> It is important to note that inability, particularly as a result of resource constraints, is a justifiable defense for the state. However, the Committee specifies two minimum requirements that must be met before a state can claim that resource constraints make it impossible to fulfill this obligation. Firstly, the state must demonstrate that it has made every effort to use all the resources at its disposal to satisfy the minimum obligation as a matter of priority.<sup>317</sup> Secondly, the state must demonstrate that it has unsuccessfully sought international support to ensure the availability and accessibility of necessary food.<sup>318</sup>

The finding of the study shows that the government has failed to fulfill both the requirements to argue that resource constraints make it impossible to comply with the minimum core obligation to ensure the right to be free from hunger. Because the available resource is not utilized as a matter of priority as the government was undertaking huge development projects countrywide including in the study area. Furthermore, as indicated above the country exported 10 million quintals of wheat claiming that the country produced a surplus. Above all, the failure of the state to declare a state of emergency which is the necessary condition to obtain international support demonstrates the absence any attempt to obtain international support. Hence, by failing to ensure the satisfaction of at the very least, the minimum essential level required to be free from hunger in the study area the state has willingly violated the covenant.

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<sup>316</sup> Ibid.

<sup>317</sup> Ibid.

<sup>318</sup> Ibid.

## CHAPTER FIVE

### 5. CONCLUSION AND RECOMMENDATIONS

#### 5.1. Conclusion

The right to adequate food is recognized under international and regional human rights instruments. Ethiopia is also a signatory to the major human rights instruments that ensure and protect the enjoyment of the right to adequate food. It is also recognized in the constitution though outside the third chapter of the constitution which deals with fundamental human and democratic rights. Besides, the country has enacted various policies and strategies that directly or indirectly deal with the right to adequate food. As it has been defined by various human rights documents as well as established by regional human rights courts, the right to adequate food is inherently connected to human dignity and it is indispensable for the enjoyment of other human rights including the right to life. Thus, it is an existential right the violation of which affects the enjoyment of other human rights. But the realization of the right to adequate food is not about obtaining minimum packages of calories, for existence or being fed rather its full realization requires the fulfilment of the elements of availability, adequacy, and accessibility. Hence, food is adequate when it meets dietary needs which vary according to age, gender or other factors is free from adverse substances, and is culturally acceptable.

In addition to this, like all other human rights, the right to adequate food imposes three layers of obligation on the state; namely, the obligation to respect, protect, and fulfil. Since the right to adequate food is the ability to feed oneself with dignity, in normal circumstances, the obligation of the state is to respect and protect the enjoyment of this right by refraining from directly interfering in the enjoyment of this right or preventing an arbitrary intervention from third parties. However, in line with international human rights instruments, in exceptional scenarios such as natural disasters or armed conflicts, the state bears the responsibility to directly provide food for the victims. Most importantly, ensuring the right to be free from hunger is the minimum core obligation of the state in realizing the human right to adequate food even in emergencies.

It has also been established that every state has the primary responsibility to take care of victims of natural or man-made disasters occurring on its territory. Equally important is, given the resource-demanding nature of this obligation the international human rights documents and the responsibility of the state in emergency stipulates that in the event of resource constraints, the state should request international cooperation to comply with this obligation. Because, the maximum available resources under article 2 of the ICESCR refers to both the

resources of the state and that from international community via international cooperation as per Article 55 and 56 of the UN Charter.

The finding of my study on the status of the realization of the right to adequate food in the study area indicates that the drought in the Borana Zone caused by the absence of rain for five consecutive seasons has resulted in a complete loss of their livestock, means of subsistence which is the main cause of their disablement. This has shifted the obligation to directly provide food to the victims of drought to the government. However, the government has not fully discharged its obligation. The data obtained from study participants, document review, and my observation has confirmed that food is not available, accessible, and adequate in the study area. Even the emergency food provided does not meet the dietary needs of elders, children, and pregnant and lactating mothers which have in turn resulted in malnutrition and death. Above all, as per the data obtained from the Dubluk Woreda administration, among the 69,286 population in the Woreda 63,743 are exposed to hunger. In addition, the prevalence of hunger in the study area is confirmed by the presence of IDPs who have never obtained food aid during their stay in the IDPs camp for more than a year.

The state's non-compliance with its minimum core obligation to ensure freedom from hunger during emergencies being the major one, the research identified several factors affecting the realization of the right to adequate food in the study area. These include the lack of proactive measures such as early warning systems and food stockpiling, poor coordination among various stakeholders, a lack of prioritization, and limited community participation in the planning and implementation of development plans. Additionally, the absence of an official declaration of drought as an emergency has hindered international cooperation in realizing the right to adequate food for drought victims. The central argument derived from the findings is that recurring drought in the study area is the consequence of the natural disaster, whereas the hunger resulting from drought is a manifestation of the state's failure to fulfill at a very least, the minimum essential level required to be free from hunger.

## **5.2. Recommendations**

To ensure the better realization of the right to adequate food for pastoralist communities in drought situations, I forward the following recommendations:

1. The Ethiopian constitution stipulates the right to adequate food as a policy objective, which is separate from the chapter on fundamental human and democratic rights. However, the thesis has established that since the right to adequate food is indispensable for the enjoyment of other human rights, the interpretation of other economic and political rights under the FDRE Constitution encompasses the right to adequate food. Thus, I recommend the undertaking of training on constitutional interpretation to read the right to adequate food in other economic and political rights under the FDRE Constitution and work towards its realization as well as enforcement.
2. Given the recurring nature of drought in the study area, the state should take precautionary measures that minimize the risk of drought-induced hunger. To this end, I recommend the proper implementation of the existing laws, policies and strategies that prioritize adequate precautions and emergency preparedness, including but not limited to disaster risk management and early warning systems.
3. It is my recommendation that, in the event of persistent drought leading to severe hunger and displacement the HPR declare a state of emergency. This declaration empowers relevant bodies, such as the National Disaster Risk Management Commission, to fulfill their mandates by mobilizing resources from both domestic and international channels. The government should move as effectively as possible to realize the right to adequate food to the maximum of its resources and should request international cooperation in the event of a limitation of resources.
4. In responding to emergencies like drought, relevant national authorities, sectors, and stakeholders should act within their respective roles, emphasizing accountability. Hence, I recommend that the primary responsibility of the state in dealing with emergencies that occur on its territory be shared between the central and regional governments in line with international instruments ratified by the state.
5. While there are ongoing efforts to incorporate pastoralist livelihoods into national development plans, these initiatives often lack the active involvement of the concerned communities and the consideration of their interest. Therefore, I recommend the enhancement of the active participation of pastoralist communities in the planning and implementation of policies and strategies that concern their way of life.

6. When providing humanitarian aid, such as food, to those affected by drought, I recommend that both governmental and non-governmental organizations adopt a human rights approach. This approach should ensure that essential elements of the right to adequate food such as availability, adequacy, and accessibility, are met. Special attention and priority consideration should be given to the most vulnerable groups, including women, children, the elderly, and people with disabilities.
7. Ultimately, I recommend that, assistance to the pastoralist community in realizing the right to adequate food should shift from post-drought emergency relief to establishing a conducive environment that enables them to feed themselves with dignity. This involves enhancing the livestock market, improving water supply, and providing access to roads, which in turn ensures both the physical and economic accessibility of adequate food.

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## Appendix

### Appendix 1: Lists of in-depth interview participants (IDP)

Participant's code	Gender	Age	Education status	Religion	Marital status	Status in the community	Date
P: I	F	32	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 23, 2023
P: II	M	46	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 24, 2023
P: III	F	28	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 22, 2023
P: IV	F	44	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 23, 2023
P: V	M	65	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 19, 2023
P: VI	F	57	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 23, 2023
P: VII	M	72	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 19, 2023
P: VIII	F	34	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 19, 2023

## Appendix 2: List of Focus Group Participants FGD I (with women)

Participant's code	Gender	Age	Education status	Religion	Marital status	Status in the community	Date
P: I	M	56	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 21, 2023
P: II	M	61	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: II	M	48	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: IV	M	40	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: V	M	43	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: VI	M	52	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: VII	M	67	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: VIII	M	38	Not attended	<i>Waaqeffataa</i>	Married	IDP	

## Appendix 3: List of Focus Group Participants FGD II (with men)

Participant's code	Gender	Age	Education status	Religion	Marital status	Status in the community	Date
P: I	F	37	Not attended	<i>Waaqeffataa</i>	Married	IDP	February 22, 2023
P: II	F	48	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: II	F	53	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: IV	F	33	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: V	F	50	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: VI	F	36	Not attended	<i>Waaqeffataa</i>	Married	IDP	
P: VII	F	58	Not attended	<i>Waaqeffataa</i>	Married	IDP	
V: VIII	F	52	Not attended	<i>Waaqeffataa</i>	Married	IDP	

#### Appendix 4: Lists of Key Informants

Participant's code	Gender	Age	Education status	Religion	Marital status	Position in the community	Date
KI: I	M	42	PhD	Protestant	Married	NGO expert (Action Against Hunger staff)	February 27, 2023
KI: II	M	48	BA Degree	Orthodox	Married	NGO expert (GOAL Ethiopia staff)	February 28, 2023
KI: III	M	36	BA Degree	<i>Waaqefataa</i>	Married	GO expert (health officer)	February 25, 2023
KI: IV	M	45	BA Degree	Muslim	Married	GO expert (District deputy administrative officer)	February 26, 2023
KI: V	M	44	BA Degree	<i>Waaqefataa</i>	Married	GO expert ( <i>Buasaa-gonofaa</i> worker)	February 25, 2023
KI: VI	M	32	BA Degree	<i>Waaqefataa</i>	Married	GO expert (Labour and Social Affairs worker)	February 25, 2023

#### Appendix 5: Informed consent

Dear Participant/s,

Good morning/Good afternoon?

My name is Obsitu Duba. I am a postgraduate student at Jimma University, School of Law. Currently, I am doing my thesis on '*Freedom from Hunger: The Right to Adequate Food of Pastoralist Community in Drought Situations with Particular Reference to Borana Oromo, Southern Ethiopia*' in Partial Fulfillment of the Requirement of LLM in Human Rights and Criminal Law. The main purpose of this study is to investigate the state of freedom from hunger and the realization of the human right to adequate food for the pastoralist community in drought situations. I'm happy to let you know that you were selected to take part in this study as one of the study participants. It is optional to take part in the study. I won't discuss what you will tell me with anyone. Your responses will be kept fully confidential. You are not required to respond to any questions you do not wish to respond to, and you are free to end the interview whenever you like. I can promise you that taking part in the study or not will have no negative effects. With your consent, I will tape-record and make notes in order to understand the information you are about to share. Your name will not be associated with any

study results while you are doing this; rather, pseudonyms will be used in place of your real name. The study's results will only be utilized for academic purposes. However, your genuine responses will contribute to the study's success, so we sincerely ask you to give your genuine and true responses to the questions to be raised. The findings of the study will help your community get a better understanding of what the realization of the human right to adequate food looks like and whether the government is effectively discharging its obligations towards the realization of the human right to adequate food and factors affecting the realization of the human right to adequate food in the study area. Please confirm your consent by signing this if you accept to participate in the study. By signing here, you agree to take part in the study. Would you be willing to take part?

Yes, \_\_\_ No \_\_\_ If yes, sign the agreement below.

Sign ----- Code-----


Signature of the researcher -----Date -----

Thank you for your participation!

### **In-depth Interview Guide**

Pseudonym/code: \_\_\_\_\_ Research site \_\_\_\_\_

Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Marital status \_\_\_\_\_ Education status \_\_\_\_\_ Position in the community \_\_\_\_\_ Date \_\_\_\_\_ Beginning time \_\_\_\_\_ Finishing time \_\_\_\_\_

 What does the realization of human right to adequate food look like in the study area?

- a) What is your understanding about the right to adequate food? Do you know that food is fundamental human right? Please, elaborate.
- b) Do you think that food is available in your community during this time? If you say yes or no, explain more.
- c) Is the available food accessible for you, physically and economically? Elaborate more.
- d) Is the accessible food adequate in terms of nutritious and healthy? Elaborate more.
- e) Is the available food cultural acceptable?
- f) What are the existing opportunities for the realization of human right to adequate food?
- g) What challenges are you facing in relation to the realization of the right to adequate food? Tell me any experience you had in relation to violation of the right to adequate food. Please, explain more.

- h) Which segments of community are mostly at risk from the failure to realize the right to food in your locality?
- i) What is the future fate of drought-affected pastoralists in realizing human right to adequate food?

✚ Is the state effectively discharging its obligations to realize the right to adequate food in the study area?

- a) Do you think that the government has obligation to realize the right to adequate food? If you say yes or no, explain more.
- b) Is the government discharging its obligations to realize the right to adequate food in your locality?
- c) If you have experienced difficulty in realizing your human right to adequate food what kind of support are you getting from the government? Or what kinds of initiatives are taken by the state (as an obligation) to fulfill the right adequate food in your locality?

✚ What factors are affecting the realization of the human right to adequate food in the study area?

- a) Tell me about these factors from the government side, community side, environmental factors, etc.

**Focus Group Discussion/FGDs Guide**


Participant's code	Age	Gender	Education status	Marital status	Position in the community

Code for the group \_\_\_\_\_ Research site \_\_\_\_\_


Date \_\_\_\_\_ Beginning time \_\_\_\_\_ Finishing time \_\_\_\_\_

- ✚ What does the realization of human right to adequate food look like in the study area?
  - a) What is your understanding about the right to adequate food? Do you know that food is fundamental human right? Please, elaborate.
  - b) Do you think that food is available in your community during this time? If you say yes or no, explain more.

- c) Is the available food accessible for you, physically and economically? Elaborate more.
- d) Is the accessible food adequate in terms of nutritious and healthy? Elaborate more.
- e) Is the available food cultural acceptable?
- f) What are the existing opportunities for the realization of human right to adequate food?
- g) What challenges are you facing in relation to the realization of the right to adequate food? Tell me any experience you had in relation to violation of the right to adequate food. Please, explain more.
- h) Which segments of community are mostly at risk from the failure to realize the right to food in your locality?
- i) What is the future fate of drought-affected pastoralists in realizing human right to adequate food?

 Is the state effectively discharging its obligations to realize the right to adequate food in the study area?

- a) Do you think that the government has obligation to realize the right to adequate food? If you say yes or no, explain more.
- b) Is the government discharging its obligations to realize the right to adequate food in your locality?
- c) If you have experienced difficulty in realizing your human right to adequate food, what kind of support are you getting from the government? Or what kinds of initiatives are taken by the state (as an obligation) to fulfill the right adequate food in your locality?

 What factors are affecting the realization of the human right to adequate food in the study area?

- a) Tell me about these factors from the government side, community side, environmental factors, etc.

### **Key Informant Interview/KII Guide**

Pseudonym/code: \_\_\_\_\_ Research site \_\_\_\_\_

Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Marital status \_\_\_\_\_ Education status \_\_\_\_\_ Position in the community \_\_\_\_\_ Date \_\_\_\_\_ Beginning time \_\_\_\_\_ Finishing time \_\_\_\_\_

- ✚ What does the realization of human right to adequate food look like in the study area?
  - a. As an expert, what is your understanding about the right to adequate food? Do you know that food is a fundamental human right? Please, elaborate this.
  - b. Do you think that food is available for drought-affected pastoralists during this time? If you say yes or no, explain more.
  - c. Is the available food accessible physically and economically? Elaborate more.
  - d. Is the accessible food adequate in terms of nutritious and healthy? Elaborate more.
  - e. Is the available food culturally acceptable?
  - f. As an expert, what did you observe about the challenges that the community is facing from the failure to realize the right to food?
  - g. What did you observe about the violation of the right to adequate food in your locality? Please, explain more.
  - h. Which segments of community are mostly at risk from the failure to realize the right to food in your locality? Why?
    - b) What are the existing opportunities for the realization of human rights to adequate food in your locality?
    - c) What is the future fate of drought-affected pastoralists in realizing human right to adequate food?
- ✚ Is the state effectively discharging its obligations to realize the right to adequate food in the study area?
  - a. As an expert, do you think that the government is discharging its obligations to realize the right to adequate food in your locality?
  - b. Which legislation, policies, and institutions are instrumental to the realization of the human right to adequate rights?
  - c. What kinds of initiatives are taken by the government (as an obligation) to fulfill the right adequate food in your locality? Tell me about the role of your office in relation to this.
- ✚ What factors are affecting the realization of the human right to adequate food in the study area?
  - a. Tell me about these factors from the government side, community side, environmental factors, and etc.

## Observation Checklist

When to observe \_\_\_\_\_ Where \_\_\_\_\_

- a) What is the status of the human right to adequate food in the study area?
- b) What does the realization of human right to adequate food look like in the study area?
- c) Which segments of the community are mostly at risk from the failure to realize the right to food in your locality?
- d) Is the state effectively discharging its obligations to realize the right to adequate food in the study area?
- e) Are the food availability, accessibility and adequacy assured in the study area?
- f) What factors are affecting the realization of the human right to adequate food in the study area?

## Document Review Checklist

Different documents like the community records, legislation, policies, government and NGOs reports and meeting minutes related to drought-affected pastoralists and human right to adequate food will be reviewed. These will help me to comprehensively understand the realization of the human right to adequate food in the study area.

## Appendix 6: Informed consent (Afan Oromo)

### Guca fedhii hormaattotaa

### Kabajamtoota/kabajamaa Hirmaataa/Hirmaattota

### Akkam Bultan/Ooltan?

Maqaan kiyya Obsituu Dubaati.Yuunivarsiitii Jimmaatti barattuu Digrii lammeessoo Muummee barnoota Seeraati. Amma ammoo eebbaaf qorannoo mataa dureen isaa ***‘Mirga beela irraa bilisa ta’uufi nyaata gahaa argachuu uummata horsiisee bulaa hongeen miidhame’*** jedhu hojjachuutti jira. Kaayoon qorannoo kanaa innii guddaan hongeen walqabatee haala beelaa naannoo Boranaa akkasumas mirgii nyaata gahaa argachuu naannoo kanaatti maan fakkaata waan jedhaa laala. Kanaaf, kaayoo qorannoo tanaa guutuuf addaatti isan filladhee af-gaafii isan waliin godhuuf karoofadhee akkasumas ittis gammadeera. Qorrannoo kan irraatti hirmaachuun fedhii malee dirqamaamiti. Waan isan natti himtan hundaa akka iccitiitti qabadha. Akkasumas, gaafii ani isan gaafadhu yoo isanti hin tolin deebisuu dhabuu dandeetta ykn addaan kuttee deemuu dandeetta. Kanaaf, fedhii guutuun

hirmaatta yoo ta'e odeeffannoo waliitti qabachuuf sagalee keessan ykn tantee waraabbachuu fi waan arge barreefachuu barbaada. Kan keessaatti ammoo wanta isin jettan malee maqaan keessan eessattiyyuu hin kaasu. Argannoon qorannoo kanaa faayidaa qorannootiif alaatti waan biraaf hin oolu. Fayidaan qorannoo tana innii guddaan waa'een mirkanaa'uu mirga nyaata ga'aa argachuu naannoo qorannoon maan akka fakkaatu, sirbamu mirga nyaataa dhabuu irra ka ka'ee kutaa hawaasaa keessa eenu akka miidhame, mootummaan dhugumaan mirgaa nyaata ga'a argachuu naannoo qorannoon itti tolfamtu tanaatti namaa eeguutti jiraachuu fi jirachuu dhiisuu isaa, haalii argamiinsa nyaataa, dhiyeessii fi madalamiinsi nyaataa maan akka fakkatu, akka uummatii mirga nyaata ga'aa argachuu hin mirkaneefanne wantoota sababa ta'an beekuuf fayyada. Kanaaf, dubbii dhugaafi qulqulluu waa'ee qorannoo kanaa akka naaf kennitan kabajan si/isin gaafadha. Qorannoo kan irraatti hirmaachuuf yoo fedhii qabaattee mallattoo keetiin/keessaniin naaf mirkaneessaa. Yoo mallatteessitan mallattoon keessan akka hirmaachuuf fedhii qabdan agarsisiifti. Kanaaf, hirmaachuu barbaadduu?

Inbarbaada \_\_\_\_\_ Hin barbaadu \_\_\_\_\_ inbarbaada yoo jettan naa mallatteessaa

Mallattoo hirmaataa \_\_\_\_\_ Koodii \_\_\_\_\_

Mallattoo Qorataa \_\_\_\_\_ Guyyaa \_\_\_\_\_

Hirmaachuu keetiif/Keessaniif Horaa Bulaa!

### **Gaafii Gadi fageennaan nama tokko tokko gaafatamu**

Koodii: \_\_\_\_\_ Fulaa Qarannoo \_\_\_\_\_


Saala: \_\_\_\_\_ Umrii: \_\_\_\_\_ Sadarkaa Gaa'elaa \_\_\_\_\_ Sadarkaa \_\_\_\_\_

Barnootaa \_\_\_\_\_ Qoodaa uummata keessatti qabu \_\_\_\_\_ Guyyaa \_\_\_\_\_ Sa'aatii  
itti jalqame \_\_\_\_\_ Sa'aatii itti xummurame \_\_\_\_\_


- a) Waa'een mirkanaa'uu mirga nyaata ga'aa argachuu naannoo qorannoon itti tolfamtuutti maal fakkata?
- b) Maarroo waan mirga nyaata ga'aa argachuu jechuu hubannoo maan qabda? Nyaata madaalamaa ykn ga'aa argachuun bu'uura mirga nama akka ta'ee beetaa? Mee akka dansaa naa ibsi!
- c) Ojjaa ykn yeroo ammaa tana sagaleen nyaatan jirtii? Yoo iyyoo ykn eeyee jettee akka dansaa naa obsi!
- d) Sagaleen jirtuu isaan dhiyaachuu ykn argachuu irraatti maan fakkattti? Naa ibsii!

- e) Sagaleen isanii dhiyeessan tun sagalee finna qabdu ykn sagalee oma cufaanuu nama quubsituu? Naa ibsi!
- f) Sagaleen isan argachuutti jirtan tun akka silaa aadaatti fudhatama qabdii? Akka aadaatti durii maan fa nyaattan ? Amma akkam ree? Naa ibsi!
- g) Mirga nyaataa mirkaneefachuuf carraan amma jiruu maan? Rakkoo tan keessaatti wannii isan akka carraatti laaltan jirtii? Naa ibsi!
- h) Mirga nyaataa mirkaneefachuun walqabatee rakkoon isan miite faan faa? Mee muuxannoo tantee ta sarbamu mirga nyaata ga'aa argachuun dhabuutin walqabattu natti himi ykn nyaata argachuun dhabuun agam miidhamte? Naa ibsi!
- i) Kutaa uummataa keessaa eenti harka guddaa akka malee miidhame sitti fakkata? Maalif?

A. Mirga nyaataa mirkaneefachuun walqabatee marroon jireenna horsiisee bulaa fuula durii isaa maan fakkata?

 Mootummaan dhugumaan mirgaa nyaata ga'a argachuu naannoo qorannoon itti tolfamtu tanaatti namaa eeguutti jiraa?

- a) Akka sitti fakkaatuutti mootummaan mirga nyaata ga'aa argachuu nama mirkaneesuuf dirqama qaba sitti fakkaataa? Naa ibsi!
- b) Fulaa isan jirtan tanaatti mirga nyaata ga'aa argachuu namaa mirkaneesuuf mootummaan dirqama ufii ba'uutti jiraa? Naa ibsi!
- c) Yoo mirga sagalee ga'aa argachuun walqabatee rakkattan gargaarsa maan faa mootummaa irraa argattan? Isan gargaaruuf mootummaan sosochii akkam faa tolche? Naa ibsi?

 Akka isaan mirga nyaata ga'aa argachuu hin mirkaneefanne maan faatti sababa isanti ta'e?

- a) Mee akka mirgii kun isanii hin eegamne waan sababa isanti ta'e gama mootummatiin, gama uummataatiin, gama haala qilleensa naannootiin fkkf walqabsiisii naa ibsi.

### Gaafii marii gareetiif qophaa'e

Koodii hirmataa	Umrii	Saala	Sadrkaa barnootaa	Sadarkaa gaa'elaa	Ga'ee uummta keessaa

Koodii Garee \_\_\_\_\_ Fulaa Qorannoo \_\_\_\_\_

Guyyaa \_\_\_\_\_ sa'aatii itti jalqabame \_\_\_\_\_ sa'aatii itti xummurame

\_\_\_\_\_

✚ Waa'een mirkanaa'uu mirga nyaata ga'aa argachuu naannoo qorannoon itti toffamtuutti maal fakkata?

- a) Maarroo waan mirga nyaata ga'aa argachuu jechuu hubannoo maan qabdan? Nyaata madaalamaa ykn ga'aa argachuu bu'uura mirga nama akka ta'ee beettuu? Mee akka dansaa naa ibsaa!
- b) Ojjaa ykn yeroo ammaa tana sagaleen nyaatan jirtii? Yoo iyyoo ykn eeyee jettan akka dansaa naa obsaa!
- c) Sagaleen jirtuu isaan dhiyaachuu ykn argachuu irraatti maan fakkatti? Naa ibsii!
- d) Sagaleen isanii dhiyeessan tun sagalee finnaa qabduu ykn sagalee oma cufaanuu nama quubsituu? Naa ibsi!
- e) Sagalleen isaan argachuutti jirtan tun akka silaa aadaatti fudhatama qabdii? Akka aadaatti durii maan fa nyaattan ? Amma akkam ree? Naa ibsi!
- f) Mirga nyaataa mirkaneefachuuf carraan amma jiruu maan? Rakkoo tan keessaatti wannii isan akka carraatti laaltan jiraa? Naa ibsi!
- g) Mirga nyaataa mirkaneefachuun walqabatee rakkoon isaan miite faan faa? Mee muuxannoo teessan ta sarbamu mirga nyaata ga'aa argachuun dhaabuutin walqabattu natti himi ykn nyaata argachuun dhabuun agam miidhamtan? Naa ibsi!
- h) Kutaa uummataa keessaa eenti harka guddaa akka malee miidhame sitti fakkata? Maalif?
- i) Mirga nyaataa mirkaneefachuun walqabatee marroon jireenna horsiisee bulaa fuula durii isaa maan fakkata?

✚ Mootummaan dhugumaan mirgaa nyaata ga'a argachuu naannoo qorannoon itti tolfamtu tanaatti namaa eeguutti jiraa?

- a) Akka isanti fakkaatuutti mootummaan mirga nyaata ga'aa argachuu nama mirkaneesuuf dirqama qaba sitti fakkaataa? Naa ibsi!
- b) Fulaa isan jirtan tanaatti mirga nyaata ga'aa argachuu nama mirkaneesuuf mootummaan dirqama ufii ba'uutti jiraa? Naa ibsi!
- c) Yoo mirga sagalee ga'aa argachuun walqabatee rakkattan gargaarsa maan faa mootummaa irraa argattan? Isan gargaaruuf mootummaan sosochii akkam faa tolche? Naa ibsi?

✚ Akka isaan mirga nyaata ga'aa argachuu hin mirkaneefanne maan faatti sababa isanti ta'e?

- a) Mee akka mirgii kun isanii hin eegamne waan sababa isanti ta'e gama mootummatiin, gama uummataatiin, gama haala qilleensa naannootiin fkkf walqabsiisii naa ibsi.

### **Gaafii Biiroo mootummaa fi miti-mootummaa qophaa'e**

Koodii: \_\_\_\_\_ Fulaa Qarannoo \_\_\_\_\_

Saala: \_\_\_\_\_ Umrii: \_\_\_\_\_ Sadarkaa Gaa'ela \_\_\_\_\_ Sadarkaa


Barnootaa \_\_\_\_\_ Qoodaa biiroo keessatti qabu \_\_\_\_\_ Guyyaa \_\_\_\_\_ Sa'aatii itti jalqabame \_\_\_\_\_ Sa'aatii itti xummurame \_\_\_\_\_

✚ Waa'een mirkanaa'uu mirga nyaata ga'aa argachuu naannoo qorannoon itti toffamtuutti maal fakkata?

- a) Akka ogeessaatti maarroo waan mirga nyaata ga'aa argachuu jechuu hubannoo maan qabda? Nyaata madaalamaa ykn ga'aa argachuu bu'uura mirga nama akka ta'ee beetaa? Mee akka dansaa naa ibsi!
- b) Ojja ykn yeroo ammaa tana sagaleen uummatii nyaatu jirtii? Yoo iyyoo ykn eeyee jettee akka dansaa naa obsi!
- c) Sagaleen jirtuu uummataa dhiyaachuu ykn argachuu irraatti maan fakkatti? Naa ibsii!
- d) Sagaleen uummataa dhiyeessan tun sagalee finnaa qabduu ykn sagalee oma cufaanuu nama quubsituu? Naa ibsi!
- e) Sagalleen uummatii argachuutti jiru tun akka silaa aadaatti fudhatama qabdii? Akka aadaatti durii maan fa nyaatan ? Amma akkam ree? Naa ibsi!
- f) Akka ogeessaatti sarbamu mirga namaa nyaata dhabuun walqabtee maan garte ? Rakkoo tanaan walqabattu akka dansaa naa ibsi!
- g) Mirga nyaataa mirkaneefachuuf carraan amma jiruu maan? Rakkoo tan keessaatti wannii ati akka carraatti laaltu jirtii? Naa ibsi!
- h) Kutaa uummataa keessaa eenti harka guddaa akka malee miidhame sitti fakkata? Maalif?
- i) Mirga nyaataa mirkaneefachuun walqabatee marroon jireenna horsiisee bulaa fuula durii isaa maan fakkata?

✚ Akka sitti fakkaatuutti mootummaan mirga nyaata ga'aa argachuu namaa mirkaneesuuf dirqama qaba sitti fakkaataa? Naa ibsi!

- a) Mootummaan dhugumaan mirgaa nyaata ga'a argachuu mirkaneesuuf dirqma isaa naannoo qorannoon itti tolfamtu tanaatti ba'uutti jiraa?
- b) Imaammatii ykn poolisiin akkasumas qajeelfamootii marroo mirga nyaata ga'aa argachuun walqabatan biroon keessan ittiin bulu maan faa ykn maan faa beetta?
- c) Yoo uummatii mirga sagalee ga'aa argachuun walqabatee rakkatee, gargaarsa maan tolchitaniif? Muuxannoo biiroo teesanii naatti himi.

 Akka uummatii mirga nyaata ga'aa argachuu hin mirkaneefanne maan faatti sababa itti ta'e?

- a) Mee akka mirgii kun uummataa hin eegamne waan sabab isanti ta'e gama mootummatiin, gama uummataatiin, gama haala qilleensa naannootiin fkkf walqabsiisii naa ibsi.

### **Gaafii dawwannaa**

Guyyaa daawwatame \_\_\_\_\_ fulaa \_\_\_\_\_

- a) Waa'een mirkanaa'uu mirga nyaata ga'aa argachuu naannoo qorannoon itti tolfamtuutti maal fakkata?
- b) Kutaa hawaasaa keessa sirbamu mirga nyaataa dhabuu irra ka ka'ee eenti irra miidhame?
- c) Mootummaan dhugumaan mirgaa nyaata ga'a argachuu naannoo qorannoon itti tolfamtu tanaatti namaa eeguutti jiraa?
- d) Haalii argamiinsa nyaataa, dhiiyeessii fi madalamiinsi nyaataa maan fakkata?
- e) Akka uummatii mirga nyaata ga'aa argachuu hin mirkaneefanne maan faatti sababa itti ta'e?

### **Sakkata'iinsa dookumentootaa**

Waa'ee mikanaa'uu mirga nyaata argachuu horsiise bulootaa haala bona keessa jiraniin walqabatee dookumentii akka akka inlala. Fakkennaaf, haala bonaa fi nyaata dhabuun walqabatee waan uummataan barraa'e, imaammata fi gabaasa biiroo mootummaa fi mit-mootummaa akka akka akkasumas yaada marii ykn qaboo-yaa'ii tanaan walqabatan inlaala.