



REALIZING CHILDREN'S RIGHT TO FOOD THROUGH SCHOOL FEEDING PROGRAM:

**A Human Rights Based Perspective of Addis Ababa City Administration's
School Feeding Program**

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Realizing Children's Right to Food through School Feeding Programs:

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Administration's School Feeding Program**

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DECLARATION

I, the undersigned, declare that the thesis entitled “Realizing Children’s Right to Food through School Feeding Programs: A Human Rights Based Perspective of Addis Ababa City Administration’s School Feeding Program” comprises my original work. In compliance with widely accepted practices, I have duly acknowledged and referenced all materials used in this work.

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Table of Contents

Acknowledgments.....	iv
Acronyms.....	vii
Chapter One	1
INTRODUCTION.....	1
1.1. Background of the study.....	1
1.2. Statement of the problem.....	5
1.3. Research questions.....	6
1.4. Objective of the study.....	7
General objective of the study	7
Specific objectives of the study	7
1.5. Significance of the study.....	8
1.6. Scope of the study.....	8
1.7. Research Methodology.....	8
Sampling Method	9
Data collection tools	9
1.8. Limitation of the study.....	9
1.9. Research organization.....	10
Chapter Two	11
Conceptual Framework on School Feeding Programs and Children’s Right to Food	11
2.1. Overview of School Feeding Programs	11
2.2. Perceptions about School Feeding Program	12
2.3. The concept of Right to food	13
2.3.1. The Link between the Right to Food and other Human Rights	16
2.4. Right based perspective of School Feeding Programs	17
Chapter Three	20
The Legal Framework of the Right to Food	20
3.1. International and Regional Instruments	20
3.2. Non-Binding International Instruments and Policies	24
3.3. How right to food links to FAO work in support of the SDGs	26
Chapter Four	27
Right to Food under the Ethiopian Legal Framework and the status of school feeding program	27
4.1. The Right to Food under the FDRE Constitution	27
4.2. The Status of School Feeding Program in Ethiopia	29

4.3. The legal framework to institutionalize School Feeding Program in Addis Ababa.....	32
4.3.1. Addis Ababa City Government School Feeding Agency Establishment Proclamation No. 68/2020	32
4.3.2. The Addis Ababa City Government School Feeding Agency Procedure Regulation No. 112/2020	33
4.3.3. The General Education Proclamation [Draft]	33
Chapter Five	34
Right Based Analysis of the Addis Ababa City Administration’s School Feeding Program	34
5.1. Introduction	34
5.2. Analysing the legal and institutional initiatives	35
5.3. Charity or Entitlement?	37
5.4. Complaint and follow up Mechanisms	39
5.4.1 Lack of ccompliant procedure	41
5.5. The prospect for the promotion of the right to food in the SFP	42
5.6. lack of explicit recognition of the right to food	43
5.7. What are the lessons to be learned from the experiences of AA city Administration SFP for further application to the whole country?	45
Chapter Six	47
Conclusion	47
Recommendation.....	49
Bibliography.....	51

Acronyms

AA – Addis Ababa

ACHPR - African Charter on Human and Peoples’ Rights

ACRWC – African Charter on the Right and Welfare of the Child

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

CFS - Committee on World Food Security

COVID 19 – Corona Virus Disease 2019

CRC – Convention on the Rights of Children

FAO - Food and Agriculture Organization

FDRE – Federal Democratic Republic of Ethiopia

ICESCR - International Covenant of Economic, Social and Cultural Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

NSFP - National School Feeding Program

SDGs - Sustainable Development Goals

SFP - School Feeding Program

SNNPR – Southern Nations Nationalities and Peoples Region

UDHR - Universal Declaration of Human Rights

UN – United Nations

USDA - United States Department of Agriculture

WFP – World Food Programme

Abstract

SFPs have been considered as an investment in the world's poorest, children or as 'savings' in global stability. As the notion of SFP has been seen from such perspectives for a long time, it seems that the recently introduced SFP in different parts of Ethiopia have been dominated by such perspectives, and the role of the rights-based approach in school feeding is far from being clearly understood. A rights-based approach establishes the child as a subject of law with legitimate claims and access to redress to assert those claims. This study, therefore, aims to examine the practice of SFP by Ethiopia's government, particularly in Addis Ababa city administration, from a human rights-based perspective to assure a child's right to food. The study strongly focuses, whether the legal and institutional frameworks that have just been formulated to implement the program help in the promotion of the right to food other than being an emergency or safety net program.

Therefore the study concluded, what is missing from the Addis Ababa school feeding program is, the fact that it is not backed by the right based approach. And as discussed, the role of School feeding in the realization of human rights to food could be highly significant when such programs are approached from the perspective of the rights-based approach as the approach advocates the principles of accountability, participation, transparency, and non-discrimination. As the program has brought visible impact in the improvement of children's nutrition, health, and education quality, it would bring a lot more positive effect if implemented appropriately from a child right perspective in the City and Nationwide as well.

And finally the study recommends, the Addis Ababa City Government SFP has to be transformed to the level of accepting right based approach, to which the right to food is the centre of assessment. The government should not see the program as a mere charity project but should recognize it as an entitlement; a human right to food, for which children can claim their right through and the government could be held accountable for. This would also allow children to have legal recourse and seek redress when their right to adequate food is violated, through administrative and judicial processes at the national level, as well as through the complaints mechanisms available under child rights treaties.

Chapter One

INTRODUCTION

1.1. Background of the study

Children due to their age are the most vulnerable group of society and so, children's right to food, among other rights, is supposed to be given serious attention by all actors both at the national and international levels. However, today, millions of children throughout the world suffer from malnutrition and undernourishment. Poverty and Food shortage due to political and climatic changes are some of the major causes of child hunger across the world.

According to the United Nations World Food Programme (WFP), 66 million primary school-age children go hungry every day, with 23 million hungry children in Africa alone.¹ Furthermore, 80% of these 66 million children are concentrated within just 20 countries. Additionally, 75 million school-age children (55% of them are girls) do not attend school due to hunger, with 47% of them living in sub-Saharan Africa.²

Malnutrition underlies and contributes to approximately 53 percent of all child deaths³. The right to food, therefore, is a fundamental and foundational right for children. Its fulfillment is essential for life, health, development, and dignity. Without these, a child will have difficulty learning, playing, engaging in other childhood activities, becoming a productive member of society in later years, and enjoying the full range of human rights to which all humans are entitled.

The right to food and adequate nutrition is established in few international instruments, like, the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The right to adequate food is envisaged in the Universal Declaration of Human Rights (UDHR)⁴, in the context of the right of mothers and children to special care and assistance. This right is also

¹ World food program, 'School feeding' (World Food Program, 2020) <<https://www.wfp.org/school-meals>> last accessed 14 May 2020

² Ibid

³ Convention on the Rights of the Child (adopted 20 November 1989, entered in to force 2 September 1990) UNGA Res. 44/25 (CRC) art 49

⁴ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 25

recognized by the International Covenant of Economic, Social and Cultural Rights (ICESCR).⁵ In the ICESCR the realization of the right to adequate food is linked with the obligation of states to implement national and international policies, including agrarian reform to improve methods of production, extension, and nutrition to ensure an equitable distribution of world food supplies in relation to need.⁶

However, there is no express recognition of Child right to food in the special treaties, rather impliedly incorporated for instance in the CRC⁷ and CEDAW⁸. In these two conventions, there is a strong focus on nutrition and the rights to social security, health, and water, which could be understood to have impliedly recognized child right to food. Further to this, the African Charter on the Right and Welfare of the Child (ACRWC), despite being the regional instrument advancing the welfare of children does not incorporate the right to food in its provisions. Still one can say that children's right to adequate food, can be implied in the right to survival and development which both ACRWC & CRC have recognized as a core principle.⁹ Such limited guidance on child hunger is compounded by lack of adequate accountability mechanisms for the realization and protection of children's right to be free from hunger.¹⁰

Yet, since the right to adequate food is enshrined in the UDHR and ICESCR which apply to all human beings including children, the absence of an explicit stipulation of children's right to adequate food in both the CRC and ACRWC should not be a barrier in ensuring children's entitlement to be free from hunger.

On the other hand, the fight against hunger led to the issuance of General Comment No. 12 by the U.N. Committee on Economic, Social and Cultural Rights (CESCR) in 1999. It has construed the right in Article 11 of the ICESCR, as the right to 'adequate' food and that it is indivisibly linked

⁵ International Covenant on Economic, Social and Cultural Rights (Adopted on 16 December 1966, entered into force 23 March 1976) GA Res.2200A (XXI) (ICESCR) art. 11

⁶ Ibid, art 11

⁷ CRC (n.2) art 24

⁸ Convention on the Elimination of All Forms of Discrimination against Women (adopted in 18 December 1979, entered in to force 3 September 1981) G.A. Res. 34/180, (CEDAW) art 12

⁹ CRC (n.2), art 2; African Charter on the rights and welfare of the child (entered into force 29 November 1999) OAU Doc. CAB/LEG/24.9/49 (1990) (ACRWC) art 5

¹⁰ Violet Odala and Yonas Tesfa, Child Hunger in Africa: A Rights Based Perspective, A Working Paper (Children and the Law Programme, African Child Policy Forum (ACPF) May 2019), p. 2

to the inherent dignity of the human person.¹¹ Though it refers to the entire diet, and not to school feeding in particular, it is obvious that school feeding can be interpreted to belong here.

It also led, in 2004, to the approval of the Voluntary Guidelines for the promotion of the progressive realization of the right to adequate food in the context of national food security by imposing an obligation on states to respect, protect and fulfill.¹² For example, Guideline 14, on Safety Nets, calls on States to establish social and food safety nets to protect those who are unable to provide for themselves.¹³ School feeding programs can be viewed as an important type of safety net here.

Also, a comprehensive solution to realizing the right to food for children calls for multiple strategies. As proclaimed in the Universal Declaration on the Eradication of Hunger and Malnutrition, governments should integrate appropriate food and nutrition policies within their socio-economic and agricultural development plans to avoid child hunger¹⁴.

Among such strategies, one is School Feeding Program (SFP). School feeding programs have been defined by the World Bank as "targeted social safety nets that provide both educational and health benefits to the most vulnerable children, thereby increasing enrolment rates, reducing absenteeism, and improving food security at the household level"¹⁵. Beyond improvements in access to food, school feeding programs also have a positive impact on nutritional status, gender equity, and educational status, each of which contributes to improving overall levels of country and human development.¹⁶

¹¹ Committee on Economic Social and Cultural Rights, General Comment No. 12, the right to adequate food, adopted by office of the high commissioner for human rights (5 may 1999) E/C.12/1999/5, para 4

¹² FAO, '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) (2005)

¹³ Ibid

¹⁴ The Declaration was adopted and endorsed by the World Food Conference convened under General Assembly Resolution 3348 (XXIX) (17 December 1974).

¹⁵ The world bank and world food program, 'Scaling Up School Feeding' (World Bank, 2012) <<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTEDUCATION/0,,contentMDK:22705274~menuPK:282424~pagePK:64020865~piPK:149114~theSitePK:282386,00.html>> accessed 8 February 2020.

¹⁶ Ibid

While school meals are provided by the governments of most high and middle-income countries around the globe, the children who may benefit most from school feeding programs are in low-income countries that do not have government-provided school meals.¹⁷

WFP has been working with governments around the world for over 45 years on school feeding program but is shifting from a food aid organization to a food assistance organization, working to move away from "individual; isolated projects, to more strategic and comprehensive approaches."¹⁸

Among such countries with whom WFP works, Ethiopia is one of them. Ethiopia's national SFP is a joint program that involves the WFP and the Federal Ministry of Education.¹⁹ Although the federal government is on the way to allocate budget for itself in the current fiscal year, additionally five regions namely Oromia, Afar, SNNPR, Amhara, Ethio-Somalia, and Addis Ababa city administration has allocated 268,746,433 birr in collaboration with WFP.²⁰ As a result of this program, 843,146 students on 2,000 schools in the stated parts of the country are now being fed.²¹

In addition to this, in 2019, Addis Ababa city administration has allocated 168 million birr for the school feeding program for about 221 government schools in all sub-cities, reaching more than 55,000 children through the school feeding program.²²

The government of Ethiopia is striving to apply the program across the country by identifying the socio economic status and food insecure areas.

The SFP program, launched in Ethiopia since 2005 and that of Addis Ababa City Administration in 2019, is a vital means of guarantying and securing the right to food of children living across the country most of whom are living under extreme poverty and food insecurity. And, the steps taken to formalize the project through law and institution²³ is something to be highly praised. However, since the right to food, as discussed above, is children's human right under international legal

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Hizkel Hailu, school feeding: keeping children in school, (Ethiopian Herald Magazine, January 19/ 2019): available at <https://www.press.et/english/?p=1700#>, last accessed on 20 February 2020

²⁰ Ibid.

²¹ Ibid

²² Ibid.

²³ Addis Ababa City School Feeding Program for 300,000 needy students kicked off <<https://borkena.com/2019/10/14/addis-ababa-city-school-feeding-program-for-300000-needy-students-kicked-off/>>, last accessed on 8 March 2020

instruments, to which Ethiopia is a party, on top of mentioning the right to food in the FDRE Constitution²⁴, the SFP provided by the government of Ethiopia should be taken seriously and the program's sustainability and its accessibility must be for all children, as a matter of entitlement or right to the children with legitimate claims and access to redress and not just as a conventional need-based approach.

1.2. Statement of the problem

A rights-based approach to child hunger uses human rights standards and principles set out in international human rights law. A rights-based approach establishes the child as a subject of law with legitimate claims and access to redress to assert those claims. Though the primary obligation for ensuring the fulfillment of a child's rights to food lies with the child's family or guardians when these people are unable to do so, the state must assume this responsibility.²⁵

To this effect, an express recognition of the right of the child to adequate food would provide a strong legal and moral basis for the promotion of national and international actions for ensuring that children are free from hunger.

National law needs to dictate government policy and program to respect child's human right to food and take the necessary action to implement. The law should charge the government with a clear duty to establish and implement processes for monitoring the effectiveness of its nutrition interventions, including the effectiveness of SFP and its implementation and enforcement.

SFP program being a recent project in Ethiopia and that of Addis Ababa City Administration, shows Ethiopia's commitment towards guarantying and securing the right of the child to education, health, and most importantly right to food of children living across the country most of whom are living under extreme poverty and food insecurity. However, since the right to food as discussed above is children's human right under many international legal instruments (to which Ethiopia is a party), the SFP provided by the government of Ethiopia should be taken seriously and the

²⁴ The Federal Democratic Republic of Ethiopia constitution, 1995, art 90, Proc. no 1 Neg.Gaz 1st year no. 1

²⁵ Clair Apodaca, Child hunger and human rights: International governance (1st Edition edn, Routledge January 2010), p. 18

program's sustainability and its accessibility must be for all needy children, as a matter of right, all over the country.

Most scholars agree that introducing the right-based approach constitutes a move from other approaches such as safety net, need-based, and emergency projects towards those that help develop the capacity of communities and individuals to realize their rights.²⁶ It has been also observed that the rights-based approaches contribute to the creation of more and more opportunities to the rights holders and to strengthen the ability of a state to fulfill their obligation as duty-bearer.²⁷

In this aspect, the design and implementation of sustainable holistic SFP in Addis Ababa and the whole of Ethiopia, requires political commitment, multi-stakeholder collaboration, accountability, and regular funding. Moreover, synergies between food, nutrition, health, education, socioeconomic, and other relevant interventions should be fully exploited, to meet the international human rights standards.

This study, therefore, aims to examine the practice of SFP by Ethiopia's government, particularly in Addis Ababa city administration, from a human rights-based perspective to assure a child's right to food. The study strongly focuses, whether the legal and institutional frameworks that have just been formulated to implement the program help in the promotion of the right to food other than being an emergency or safety net program.

1.3. Research questions

As elaborated above, SFPs have been considered as an investment in the world's poorest, children or as 'savings' in global stability. Even the World Bank considers SFP as a safety net, a strategy or a response to the global food crises and a means to provide social protection for the poor, and a sustainable investment in human capital as part of long-term global efforts to achieve Education for All.²⁸

²⁶ Chilton Mariana and Donald rose, 'A Rights-Based Approach to Food Insecurity in the United States' [2009] 99(No 7) American journal of public health <10.2105/AJPH.2007.130229> accessed 14 May 2020

²⁷ Ibid

²⁸ The world bank, Scaling Up School Feeding (n 14)

As the notion of SFP has been seen from such perspectives for a long time, it seems that the recently introduced SFP in different parts of Ethiopia have been dominated by such perspectives, and the role of the rights-based approach in school feeding is far from being clearly understood.

Therefore, the study will try to assess the prospect for the promotion of the rights to food in Ethiopia through rights-based approach to school feeding programs. The assessment of rights-based programs would ask whether the program has helped to ensure that students' rights are realized. Accordingly, the following questions will be the central point of the assessment;

- Does the Addis Ababa school feeding program serve as a means in the promotion and realization of the right to food?
- What are the major gaps in the implementation and monitoring procedures of the school feeding program in Addis Ababa?
- What are the lessons to be learnt from the experiences of Addis Ababa (A.A) city Administration SFP in this study for its sustainability and further application to the whole country, as a matter of right to all children?

1.4. Objective of the study

General objective of the study

To explore the appropriateness, relevance, and importance of SFP, in Addis Ababa, from a right-based perspective, whether this would contribute to the realization of the right to food for children as the most vulnerable members of the population. In addition, the study aims to analyze Ethiopia's commitment towards realizing child right to food through SFP from its political, legal, financial, and institutional environment.

Specific objectives of the study

- To identify whether they are in line with the objectives of the protection of the rights of the children affected and for the future promotion of the right to food for all in need in Ethiopia.
- To analyze the existing legal and institutional framework, whether they are in conformity with Human right standards in general and child right to food in particular
- To assess the institutional capacity and readiness to implement the program and the accessibility of mechanisms for improved evaluation and accountability.
- To advocate the importance of SFPs in realizing child right to food, aimed at supporting the capacity of the Government to develop National School Feeding Program (NSFP)

1.5. Significance of the study

The significance of the study is in its contribution to better understand the right-based approach to child right to food in general and SFPs in particular so that it might contribute to efforts aimed to the promotion of children's right to food in Ethiopia.

It may help to bring the problem to the attention of policymakers and other stakeholders the relevance of SFP in safeguarding the right to food and other related rights of children.

It also helps the government to understand, other than articulating in law and policy, it has to become critically self-aware and provide child access to food as the main core obligation. Plus, it helps to create an enabling political, legal, financial, and institutional framework for holistic rights-based school feeding programs and it may advocate for more investment to build nationwide institutional capacity that can facilitate mechanisms for improved implementation and realization of child right to food.

1.6. Scope of the study

This research is limited to the examination of school feeding program in governmental schools within Addis Ababa City Administration also focuses only on the assessment of the legal and institutional framework from the human right-based approach. Thus, it does not include an impact assessment of the program on the beneficiaries and its outcome so far. However, practical examples and trends will be used to analyze the legal and institutional framework, paying particular attention to the impact of the program on the realization of the right of the right holders. On the other hand, though it intends to review human right instruments and national policies, its main focus is on the newly formulated Addis Ababa City Administration school feeding agency, its establishment proclamation, and subsequent regulation & directives that could help analyze the SFP in the city Administration.

1.7. Research Methodology

The assessment of rights-based programs would ask whether the program has helped to ensure the students' rights are realized and the degree to which it helps in the realization of particular rights. Therefore, this research is both doctrinal and non-doctrinal study. It is based on qualitative method of study to analyze the SFP, legal and institutional frameworks and its enforcement mechanisms

employed in A.A city Administration. To this end, the study involves the assessment of all related laws, policies, strategic documents as well as the institutional framework formulated in A.A city Administration. Primary data collection of the study involves reports developed by the school feeding agency itself as well as interviews held with individuals involved in formulating the new SFP in the city. The secondary data sources are books, journals, articles, and other related studies, which are relevant to analyze the SFP in the city Administration from a human right perspective. National and international human right documents will be used to help analyze the concept from human right standards.

Sampling Method

Among the non-probability sampling techniques the researcher used Purposive or judgmental sampling. Purposive or judgmental sampling is a strategy in which particular settings persons or events are selected deliberately in order to provide important information that cannot be obtained from other choices.²⁹ The researcher identified people with relevant information's who are believed to have various experiences in relation to Addis Ababa City Administration School feeding program, by working in the project.

Data collection tools

For this study, there will be interviews held in depth with the peoples who will be purposively selected to be respondents. Different related documents will be referred and analyzed. In addition, the researcher's personal observation will be considered.

1.8. Limitation of the study

As the concept of school feeding as well as the formulation of the law and institution is just a recent phenomenon in our country in general and in Addis Ababa in particular, the study has faced some limitations in its depth and coverage to fully address its objectives. As the School Feeding Agency has just been established and few legal developments have just been witnessed, it is very difficult to get similar studies or publications on the quality of the framework itself let alone from a human right perspective. Moreover, due to COVID 19 pandemic, schools are closed and forced

²⁹MAXWELL, J. A.. Qualitative Research Design: An Interactive Approach London, Applied Social Research Methods Serie, 1996.

the program to stop for a while. Therefore, inadequacy of information is another problem. Regardless, the result of the study may provide some insight into how school feeding programs have been conducted in Addis Ababa, and whether such programs potentially contribute to the promotion of the rights to food in Ethiopia.

1.9. Research organization

The research paper is organized in five sections. The introduction chapter includes the background, basic questions, and the main objectives of the research. The second chapter discusses the conceptual framework on school feeding program and child right to food. Chapter three deals with international and regional legal framework on the right to food. Chapter four is about the right to food under the Ethiopian legal framework and the status of SFPs. And Chapter five dwells upon the Right Based Analysis of the Addis Ababa City Administration's School Feeding Program. Then the last Chapter provides for a conclusion of the discussions made in the preceding chapters as well as recommendations identified out of the analysis.

Chapter Two

Conceptual Framework on School Feeding Programs and Children's Right to Food

2.1. Overview of School Feeding Programs

According to the International Food Policy Research Institute, many countries around the world have been implementing SFPs and they can be categorized in different stages of commitment level³⁰.

Countries like Afghanistan and Sudan, are blamed to be unable to lead school feeding programs, as they performed low in sustaining feeding programs started by various stakeholders. Countries like Chile and India, are relatively in a better position for having functional, country-led school feeding programs.³¹ For example, the Government of Chile has provided a school feeding program for over 40 years through the La Junta Nacional de Auxilio Escolar y Becas (National Board of School Assistance and Scholarships) through a public-private partnership. This program involves technology that allows food to be centrally mass-produced and then distributed across the country.³²

Additionally, the Government of India has supported school feeding programs since 2001, when the country recognized Indians' Constitutional Right to Food³³ for which school feeding has come to form the legal right for school-age children and is recognized as an important mechanism for the realization of child right to food.³⁴ Scholars and activists in India argued that children are the right holder and primarily, the Indian government and then various categories of Indian society are the duty bearers.³⁵

³⁰ World food programme, REVISED School Feeding Policy: Promoting Innovation to Achieve National Ownership (FAO November 2013) p. 9

³¹ Ibid

³² Ibid

³³ Rachel winch, International Approaches to School Feeding: Country Experiences from Mali, Chile, and India (Mickey Leland International Hunger Fellow Global Child Nutrition Foundation June 2009)

³⁴ Priya shankar, 'Hunger In a Land of Plenty: The Benefits of a Rights-Based Approach to India 's Mid Day Meal Scheme' [2009] College Undergraduate Research Electronic Journal <<http://repository.upenn.edu/curej/148>> accessed 4 May 2020 p. 11

³⁵ Ibid

School feeding programs in the United States have been in existence since the early 1800s. School meals were supplied by private societies and organizations.³⁶ But just after the Great -Depression, because of widespread need, private societies and organizations were no longer able to provide solely for the needs of the schools and families. Then the United States Department of Agriculture (USDA) School Lunch Program was established in 1946 and institutionalized school feeding for all schools in the United States.³⁷

Countries that are in the middle of the stages, such as Kenya and Ecuador may have some but not all of the governmental policies, financial capacities, or institutional capacities to operate school feeding programs without external funding or implementation.³⁸

For instance, the Ghanaian School Feeding Program was implemented as a way to meet Millennium Development Goals and improve the quality of life residents. The school feeding program is in place for Ghanaian primary schools, but had not included kindergarten and middle school or junior high school students. Various organizations have funded meals for those schools not receiving aid from the Ghanaian government. But in doing so, there is concern about sustainability and food sovereignty once these organizations are no longer funding school feeding programs.³⁹

2.2. Perceptions about School Feeding Program

At whatever stage they are pausing, most countries, developing or developed, are implementing SPFs in their (mostly) governmental schools. Whether the implementation is at the initial stage or satisfactory level, School feeding programs have been implemented around the world for varying reasons based on the respective country's perception of the concept, for instance; to alleviate short-term hunger in children and to improve educational outcomes.⁴⁰

³⁶ ElizabethA Gunderson and others, 'The Role of Parents and Teachers in the Development of Gender-Related Math Attitudes' [2012] 66(1) Sex Roles <<https://doi.org/10.1007/s11199-011-9996-2>> accessed 14 May 2020, p. 66 (3-4), 153–166.

³⁷ Yolanda L. Jackson, Cross cultural comparison of perceptions about school feeding programs (University of Kentucky 2012) p. 14

³⁸ Rachel Winch (n 31)

³⁹ Ibid p. 13

⁴⁰ Helen Getachew, The Right to Food and School Feeding Programmes in Addis Ababa: Experiences from Tsehail Chora and Dagmawi Minelik Kindergarten and Primary Schools,(center of human rights thesis, Addis Ababa university 2014) p. 11

School feeding programs have been defined by the World Bank as "targeted social safety nets that provide both educational and health benefits to the most vulnerable children, thereby increasing enrollment rates, reducing absenteeism, and improving food security at the household level."⁴¹ The notions of safety net and food security have become a widely discussed perspective in recent times and school feeding program is considered as one of the mechanisms of putting the same into practice.⁴²

Some countries take SFPs as one aspect of public service delivery mechanism in a broader context of welfare and development policies. Meaning, implementing SFP depends on the given school's policy; not on the needs of students or hunger/starvation considerations underlying such practices of providing food to all students across the board.⁴³

However recently, the rights-based approach have become popular at school feeding and other development programs, as it highly concentrates around human right principles in that it keeps governments accountable for their action, enhance transparency, empower the rights holders and aim to ensure their participation in the whole processes of the program.⁴⁴ Therefore, the rights-based approach to school feeding program, compared to the other perspectives, stresses the importance of government obligations based on international human rights instruments and domestic legislation to make sure that children at school are free from hunger and have sustainable access to adequate food.

2.3. The concept of Right to food

The right to food protects the right of all human beings to be free from hunger, food insecurity , and malnutrition.⁴⁵ It does not imply that governments have an obligation to hand out free food to everyone who wants it, or a right to be fed. However, if people are deprived of access to food for reasons beyond their control, the right requires the government to provide food directly.⁴⁶

The right to food is not only the right to be fed after an emergency. It is the right, for all, to have legal frameworks and strategies in place that further the realization of the right to adequate food,

⁴¹ School feeding in low income countries, https://en.wikipedia.org/wiki/School_feeding_in_low-income_countries accessed on 20 February 2020

⁴² Helen Getachew, (n 38) p 11

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ The right to food <https://en.wikipedia.org/wiki/Right_to_food> last accessed on 8 March/2020

⁴⁶ Ibid

as a human right recognized under international law. By directing the adoption of the right under different legislations, the right to food is a compass to ensure that the legislations are geared towards alleviating hunger and malnutrition.⁴⁷

As beautifully put in their paper Violet Odala and Yonas Tesfa⁴⁸ said:

“expressly stipulating a right in an international human rights instrument is of paramount importance as it establishes a solid and binding normative basis for promoting and realizing that particular right. An express recognition of the right of the child to adequate food would provide a strong legal and moral basis for the promotion of national and international actions for ensuring that children are free from hunger”.

Voluntary Guidelines which are a set of recommendations to governments and states on how the States parties of the ICESCR should meet their obligations under the Covenant, agreed upon by the 187 state members of FAO, spells out what specific strategies, policies, programs, and initiatives should be adopted towards the realization of the different dimensions of the Right to adequate food.⁴⁹ Following this, over the last decade, several countries have enacted national food security legislation addressing the right to adequate food and have explicitly included the Right to adequate food in their constitutions. The Committee on World Food Security has also adopted a work plan, which is based on the right to adequate food and promotes the implementation of the guidelines of the Right at the national level.

This set of **documents** points clearly to the fact that the promotion and protection of the right to adequate food is much more than, and must not be reduced to, the provision of emergency food assistance to those living in acute or chronic situations of hunger and food deprivation. According to these documents, the promotion and protection of the right to adequate food implies that national and international public policies must primarily respect and protect the capacity of human beings to feed themselves.

⁴⁷ Olivier De Schutter: United Nations Special Rapporteur on The Right to Food; Briefing Note on 01 - May 2010 page 1, PDF.

⁴⁸ Violet Odala and Yonas Tesfa, (n 9) p. 2

⁴⁹ ICESCR, General Comment 12 (n 10)

Claire Apodaca a US human right activist and writer challenges the conventional needs- based approaches to child hunger. In her book titled *Child Hunger and Human Rights; International Governance*; she argues the problem of child hunger, as it can't be addressed on an immediate need basis approach. She justifies her right based approach to child right to food for two reasons which are First, she believe that, although food is the most fundamental of human rights, it is also the most widely violated right worldwide. Despite the importance of the right to food for a child's dignity, life, and health, it has not received adequate political or scholarly focus. Second, children's right to food, to be free from hunger, is the most obvious human rights case to argue, if one believes in the importance of human rights globally⁵⁰.

Rose Nathan argues that the law should charge the government with a clear duty to establish and implement processes for periodically monitoring the effectiveness of its nutrition interventions, including the effectiveness of legal provisions and their implementation and enforcement. This way, programmatic adjustments and legislative amendments can be undertaken as appropriate. Different models for doing this include, among others, monitoring by the state, special rapporteurs, ombudspersons, or civil society⁵¹

In addition to this a child's human right to food is also a moral claim based on human dignity that is given positive or legal definition when it becomes codified in legal systems, such as international treaties or domestic constitutions. However, a child's right to food can also be justified in economically and politically instrumental terms.⁵² Beyond the suffering, deformities, and deaths of children, child malnutrition results in reduced physical and mental development, thus threatening the child's life opportunities, the prospects of further generations, and the growth of the economy.

A comprehensive solution to realizing the right to food for children calls for multiple strategies. As proclaimed in the Universal Declaration on the Eradication of Hunger and Malnutrition,

⁵⁰ Clair Apodaca, (n.24) p. 14.

⁵¹ Rose Nathan, *Realizing Children's Rights to Adequate Nutrition through National Legislative Reform* (UNICEF November 2008), p. 55.

⁵² Clair, (n.24) p. 14

governments should integrate appropriate food and nutrition policies within their socio-economic and agricultural development plans⁵³.

Thus, it can be induced as, the right to food is inherent in the protection of other rights like the right to life, health and the right to economic, social and cultural development; and that this right is realized when everyone, alone or in community with others, has physical and economic access at all times to adequate food.

2.3.1. The Link between the Right to Food and other Human Rights

Human rights are universal, indivisible and interdependent; they are also interrelated without any right taking precedence over another. Since food is multidimensional in nature, there are close links between the right to food and other human rights such as⁵⁴:

- The right to water, as this is part of food intake and is necessary to produce and cook food;
- The right to property, in particular access to land and other productive resources needed to produce food;
- The right to health, because the proper biological use of food is contingent on the state of health of the person and the possibility of access to basic health care;
- The right to work and fair remuneration, which allows people to provide for their basic needs, including food.
- The right to life, which is highly related to the right to food as it concerns with the human safety and dignity

The human right to food is of a crucial importance for the enjoyment of all other rights. The right to food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined under international bill of human rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental,

⁵³ Universal Declaration on the Eradication of Hunger and Malnutrition (n 13)

⁵⁴ José María, Medina Rey and Maria Teresa de Febrer, The right to food within the international framework of human rights and country constitutions (FAO: right to food handbooks 2014)

and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfillment of all human rights for all⁵⁵.

2.4. Right based perspective of School Feeding Programs

The regular provision of nutritious meals through school meal programs has been shown to improve vulnerable children's diet quality, attendance and enrolment, particularly for girls.⁵⁶

According to FAO, school food and nutrition framework, a human rights focus that recognizes children's right to adequate food and provides for accountability, non-discrimination, transparency, human dignity, empowerment and rule of law will provide a solid grounding for school food and nutrition.⁵⁷

It will also support countries' compliance with international human rights instruments, as well as aid greater public awareness of the rights of the child. FAO's approach emphasizes the assessment of system, policy, legal and institutional arrangements at country level to propose tailored and feasible solutions that enable the adequate implementation of complementary and synergistic interventions in school food and nutrition. Further efforts in this area will also support the design and implementation of monitoring and evaluation schemes that provide evidence for policy analysis and accountability.⁵⁸

SFP greatly contributes to the realization of a wide variety of human rights. And the key human right is the human right to adequate food, along with the rights to education and health.

George kent tried to put a hypothesis for his essay as;

*“ The core hypothesis underlying this essay is that rights-based school feeding programs are likely to yield better nutritional and educational results, when compared with school feeding programs that are not rights-based”*⁵⁹

⁵⁵ Manoj kumar sinha, 'Right To Food: International and National Perspectives ' [2014] 56(1) Journal of the Indian Law Institute p. 47-61

⁵⁶ FAO, School Food and Nutrition Framework, (year? 36 pp. License: CC BY-NC-SA 3.0 IGO)(2019)

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹ George kent 'Designing Rights-Based School Feeding Programs' [2010] 5 (2) Societies Without Borders p 7-8

He argues that, school feeding programs are great way of realizing child right to food, health and education. And therefore, should not be seen as a mere charity project but should be recognized as an entitlement; a human right to food, for which right holders can claim their right through and duty bearers could be held accountable for.⁶⁰

Thus, from a rights perspective, one supposed to make sure that, whether the SPF is being implemented as of right; and whether the beneficiaries get the food as a matter of charity or as a matter of entitlement. If the food is not provided in the proper way, do those who are deprived simply suffer in silence, or can someone be called to account?

After the promulgation of the right to food in its constitution, the Supreme Court of India came up with an order in 2001 stipulating children's right to mid-day meals, as an entitlement in detail, including minimum levels of particular nutrients.⁶¹ Therefore, at least in principle, the right holders could make legal complaints if they are denied of what they are entitled to get. Despite such a huge move legislation wise, the legal recourse mechanisms in India are blamed not to be strong enough to enforce the same.⁶²

The major argument here is, if agencies stipulate entitlements and set standards thereof, it is a must to have accountability mechanisms to guard and enforce them. Otherwise, they would fail to be recognized as entitlements. With no effective complaint mechanism, there are no effective rights.⁶³

United Nation Food and Agriculture Organization (FAO) stated,

*A rights-based approach views governments' promotion of food security as an obligation, hence not as a form of benevolence. It insists on the accountability of duty-bearers to rights-holders. Its conception of good governance places special emphasis on the active participation of all stakeholders in policy development, on transparency in government, and on ensuring through an independent legal framework that people have access to effective remedy whenever they have not received their due.*⁶⁴

⁶⁰ Ibid.

⁶¹ Priya Shankar (n. 32) p. 30-33

⁶² Ibid

⁶³ George Kent (n 57) p. 2

⁶⁴ Office of high commissioner on Human Rights, the right to adequate food, fact sheet 34, 2006 <<https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf>> accessed on 5 may/2020

Rights systems don't work if the rights holders don't know their rights and don't know how to make use of them. Students should know, and should have a right to know, what they are entitled to, and what they can do about it if they don't get it.

Chapter Three

The Legal Framework of the Right to Food

3.1. International and Regional Instruments

Over the years, important advances have been made at various levels for the realization of the right to food of everyone. Globally, the starting point was the UDHR in 1948⁶⁵, which was subsequently developed into legally binding agreements such as the ICESCR. Additional legal guarantees have been afforded to specific groups, such as women, children, and persons living with disabilities.

UDHR recognized everyone's right to adequate living standards for the health and well-being of him/herself which includes food and other the basic necessities.⁶⁶ Despite the non-binding nature document, the significance of the UDHR lies in its global acceptance and its norm-setting role in all countries of the world which also makes it part of international customary law.⁶⁷ Accordingly, it is very important that the UDHR recognized everyone's right to adequate living standards and make an explicit reference to food as forming an essential part of such standard.

Moreover, the International Covenant on Economic, Social, and Cultural Rights recognizes several economic, social, and cultural human rights, including the right to food, the right to health, the right to education, the right to adequate housing, and the right to work.⁶⁸ Through this treaty, governments committed themselves to take all measures necessary to ensure everyone's right to an adequate standard of living for himself and his family and to the continuous improvement of living conditions including adequate food.⁶⁹ Furthermore, ICESCR does also recognizes the fundamental right of everyone to be free from hunger.⁷⁰

According to General Comment 12 of the United Nations Committee on Economic, Social and Cultural Rights, "the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the

⁶⁵ Office of the united nation high commissioner for human rights, the united nation human rights treaty system; an introduction to the core human right treaties and treaty bodies, fact sheet no.30, available at <https://www.ohchr.org/Documents/Publications/FactSheet30en.pdf>, last accessed on 8 March 2020

⁶⁶ UDHR Article 25, Paragraph 1.

⁶⁷ OHCHR, Fact sheet no.30 (n. 63)

⁶⁸ Ibid

⁶⁹ ICESCR (n.4) article 11

⁷⁰ Ibid

International Bill of Human Rights”.⁷¹ The committee further noted that the right to food is “also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfillment of all human rights for all”.⁷² According to the 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”.⁷³

The ICESCR enshrines two interrelated components of the right to food: the right to adequate food and the fundamental right to be free from hunger. The right to food thus has two essential components: the *availability* of food and *access* to it.⁷⁴ The first one could be described as the availability of a culturally acceptable diet, sufficient in both quantity and quality to satisfy the nutritional needs of the individual. In other words, each person should be able to obtain it either directly from the land or other natural resources or from distribution systems that purvey the food to those who require it.

The second element entails the notion of every person’s physical and economical access to food. Physically means that every person, including those physically vulnerable such as infants and young children, the aged, the handicapped, the sick in terminal phases of their illnesses, and the infirm suffering from persistent medical problems, must have access to an adequate diet. Economically means that the spending of a person, of a household, or a community to ensure an adequate diet should not jeopardize the enjoyment of other human rights, such as the right to health, the right to adequate housing, the right to education, etc.⁷⁵

The International Covenant on Economic, Social and Cultural Rights is legally binding for the 167 countries that have ratified it⁷⁶, and as such the States parties are required to adopt all appropriate steps to progressively ensure the full realization of the right to food to the extent of maximum resources available to them including any resource that could be accessible from the international

⁷¹ ICESCR General Comment No. 12 (n.10)

⁷² Ibid

⁷³ Ibid. para.6.

⁷⁴ Christophe Golay and Melik Özden, *The Right To Food: A fundamental human right affirmed by the United Nations and recognized in regional treaties and numerous national constitutions* (Europe-Third World Centre 2013) p. 7

⁷⁵ Ibid.

⁷⁶ OHCHR, Fact sheet no. 30 (n 63)

community and also to take appropriate measures that can improve methods of production, conservation, and distribution of food.

Furthermore, the Convention on the rights of the child recognizes “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development”⁷⁷. It also requires states to combat child malnutrition⁷⁸ and to “take appropriate measures” to assist parents in fulfilling their primary responsibility to implement children’s right to an adequate standard of living, “particularly with regard to nutrition”⁷⁹. Article 24(c) of the CRC obliges States Parties to combat disease and malnutrition through the provision of adequate and nutritious food and clean drinking water. Article 27 of the CRC further enshrines a child’s right to an adequate standard of living.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁸⁰ does also contain provisions that protect the right to food of women. While Article 12 of CEDAW explicitly entitles women to adequate nutrition during pregnancy and lactation, Article 14 emphasizes the need to protect women’s access to land, credit, income, and social security programs as depriving women of such resources can lead to a violation of their right to food.

Certainly, the right to food, under international human rights instruments, could be said to have a strong foundation based on the provisions of UDHR, ICESCR, and CRC. Though these instruments have not out rightly recognized the right to food as such, they have created concrete links between the intrinsic necessity of food and human dignity and the right to life. Moreover, General Comment 12 of the ICESCR tries to articulate a strong notion of the right to food which is crucial for the realization of other fundamental human rights. General Comment No. 12 forms the most authoritative interpretation of the right to food. It outlines the core contents of the right to food and explains the corresponding States’ obligations⁸¹. More specifically, CRC has stipulated the indispensable significance of food for the child’s physical, mental, spiritual, moral, and social development. The collective reading of these provisions would enable norms and standards under

⁷⁷ CRC (n.2) art. 21(1)

⁷⁸ Ibid, art. 24(2) (c).

⁷⁹ Ibid, art. 27(3).

⁸⁰ CEDAW (n 7) art. 12(2) & 14(2) (h).

⁸¹ General Comment No. 12 (n 10)

the international human rights discourse that could be utilized for the realization of the right to food of everyone and children in particular.

Besides the aforementioned UN human rights treaties, there could also be regional human rights Instruments that explicitly or implicitly acknowledge the right to food. The African Charter on Human and Peoples' Rights does not explicitly recognize the right to food. However, the recognition of the right to life, health, and the right to economic, social, and cultural development will implicitly produce a derivative right to food which is a fundamental prerequisite for the realization of such rights. The Charter does also stipulates that "all peoples shall freely dispose of their wealth and natural resources."⁸² Undeniably, access to and control over natural resources is crucial to realize the right to food particularly for subsistence farmers and pastoralist communities.

Moreover, the African Commission on Human and Peoples' Rights, a treaty body under the AU system, established to oversee the implementation of the Charter, is empowered to draw inspiration from international human rights instruments while interpreting the provisions of the charter.⁸³ This means the Commission could use provisions under the UDHR, ICESCR, CRC, and more to create the link between the right to food and the rights provided under the charter.

The African human rights system explicitly recognizes the right to food of women. In this respect, the right to food security of women is recognized in a protocol to the African Charter on Human Rights that obliges States Parties to "provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food and to establish adequate systems of supply and storage to ensure food security"⁸⁴.

The ACRWC, for its part, is relatively explicit. The countries that have ratified it, by recognizing the child's right to health, have effectively committed themselves "to ensure the provision of adequate food and safe drinking water"⁸⁵. They are also committed to taking, in accordance with the means at their disposal, all appropriate measures to assist parents or other persons responsible

⁸² African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58 (African Charter) art 21

⁸³ Ibid, art 60

⁸⁴ Additional Protocol to the African Charter on Human and Peoples' Rights and the Rights of Women in Africa, (African Commission on Human and Peoples Rights, 11 July 2003), art 15.

⁸⁵ ACRWC (n.8) art 14.

for the child and to provide, if need be programs of material assistance and support, notably as regards nutrition⁸⁶.

Moreover, the ACRWC stipulates children's right to adequate nutrition as a component of the right to health⁸⁷. The African human rights system also acknowledges the right to food of Internally Displaced Persons. To this end, the States Parties to Kampala Convention are obliged to provide these persons with adequate humanitarian assistance, including food and water⁸⁸, and that members of armed groups must not deny internally displaced persons the right to live in satisfactory conditions of dignity, security, sanitation, *food, water*, health, and shelter⁸⁹.

3.2. Non-Binding International Instruments and Policies

In addition to the treaties overviewed earlier, several non-binding instruments have been adopted under the UN human rights system to define the normative contents of the right to food and corresponding State obligations. For instance, the 1996 Rome Declaration on Global Food Security, played a remarkable role in redefining the international policy on food security where States agreed to halve the number of undernourished people by 2015.⁹⁰ The Rome Declaration reaffirms the right of everyone to have access to safe and nutritious food, which is consistent with the right to adequate food and the fundamental right of everyone to be free from hunger⁹¹.

It defines food security as “existing when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life”⁹². This definition involves four dimensions of food security: availability, access, utilization, and stability.

The 1996 World Food Summit adopted a Plan of Action that outlines objectives and measures deemed crucial for the implementation of the commitments contained in the Rome Declaration⁹³.

⁸⁶ Ibid, art 20.

⁸⁷ Ibid, art.14(c)

⁸⁸ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (adopted in 23 October 2009, entered in to force in 06 December 2012) (Kampala Convention), art. 9 (2) (b).

⁸⁹ Ibid., Art. 7 (5) (c).

⁹⁰ FAO, Rome Declaration on World Food Security and the World Food Summit Plan of Action (13-17 November 1996), at <<http://www.fao.org/docrep/003/w3613e/w3613e00.HTM>,> accessed on 20 may 2020, para. 18

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid

The Summit also underlined the need to clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger and to give attention to implementation and full and progressive realization of this right as a means of achieving food security for all. It is in response to such initiatives that the CESCR introduced General Comment No. 12 on the Right to Adequate Food in 1999.

The need to implement a rights-based approach to combating hunger and malnutrition was emphasized in the Food and Agriculture Organization's (FAO) Right to Food Guidelines that was adopted by consensus of 180 States (members of the FAO council) in 2004. The Right to Food Guidelines is meant to be used as a practical tool by States in developing legislation, strategies, policies, and programs to achieve food security and realizing the right to food domestically. In particular, Guideline 7 invites States to⁹⁴:

- include provisions in their domestic law which may include their constitutions, bill of rights, or legislation that directly implement the right to adequate food,
- consider administrative, quasi-judicial, and judicial mechanisms to provide adequate, effective, and prompt remedies, particularly for members of vulnerable groups, and
- Inform the public of all available rights and remedies within states that have already established a right to adequate food within their legal system.

Though as the name indicates the voluntary guidelines are prepared based on previously discussed binding as well as non-binding international instruments. Within FAO, the voluntary guidelines are understood as a human rights-based practical tool that is designed in the hope of supporting the progressive realization of the right to adequate food in the context of national food policies and practices. States are therefore encouraged to apply in developing their national strategies, policies, programs, and activities which focus on the realization of the right to adequate food.

The Guidelines are significant to improve legal and accountability frameworks of States. The FAO's recent data shows at least 30 countries include the right to food in their constitutions explicitly as a justiciable human right and that 74 constitutions contain provisions that protect the

⁹⁴ Ibid

right to food implicitly as a component of other broader rights⁹⁵. Dozens of countries have also enacted framework laws on the right to food or food security over the last few years.

The Right to Food Guidelines has contributed to advancing the momentum towards the realization of the right to food in global forums, including the Committee on World Food Security (CFS). Whether as a result of consensual international documents with the fulfilment of the right to food as an objective, such as the Voluntary Guidelines on the responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, or as laying down in the foundation of the (SDGs), the fulfilment of the right to food is increasingly becoming a priority on the international agenda⁹⁶.

⁹⁵ FAO, the Right to Food around the Globe< <http://www.fao.org/right-to-food-around-the-globe/en/>> accessed 14 may 2020

⁹⁶ Ibid.

Chapter Four

Right to Food under the Ethiopian Legal Framework and the status of school feeding program

4.1. The Right to Food under the FDRE Constitution

The 1995 FDRE constitution of Ethiopia includes civil and political rights and economic, social, and cultural rights with a normative imperative to respect and advance fundamental human and democratic rights of citizens. In this regard, the FDRE constitution breaks away, modestly, from the previous, 1931, 1955, and 1987 constitutions. These rights, most if not all, are also modeled after the UDHR, ICCPR and ICESCR.¹⁰⁰

Although the FDRE constitution contains no provision that explicitly recognizes the right to food, it does provide for other economic, social, and cultural rights. It includes provisions for farmers to receive a fair price for their products, the right to equal access to social services, and recognizes the state's obligation to allocate resources to social services.¹⁰¹ The Constitution has also recognized the right to life, equality before the law, freedom of association, access to justice, and equality between men and women. Article 90 of the Constitution states that “to the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food, and social security”.¹⁰²

Also, Ethiopia ratified many international human rights instruments.¹⁰³ The right to food enshrined in international law is part of Ethiopian law, by adoption and interpretation. The FDRE Constitution under article 9(4) clearly states that “all international agreements ratified by Ethiopia are an integral part of the law of the land” and according to article 13(2), human rights provisions

¹⁰⁰ Getachew Assefa, *Ethiopian Constitutional Law with Comparative Notes and Materials: A Textbook*. Addis Ababa University. 2012, p. 450-455.

¹⁰¹ FDRE Constitution (n. 23) art 41.

¹⁰² *Ibid*, art 90.

¹⁰³ Namely, International Covenant on Civil and Political Rights, International Covenant on Economic Social and Cultural Rights, International Convention on Elimination of all Forms of Racial Discrimination, the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of Discrimination Against Women, Convention on the Rights of the Child. Ethiopia is also a party to the African Charter on Human Right, the Africa Charter on the Rights and Welfare of the Child, and among International Labor Organization international instruments, Ethiopia ratified the Minimum Age Convention and the Convention on Equal Remuneration for Men and Women workers for work of equal value.

of the constitution “shall be interpreted in a manner conforming to the principles of UDHR, the International Covenants on Human Rights and international instruments adopted by Ethiopia”.

Thus, Article 9 (4) and Article 13 (2) of the constitution serve as a potential vehicle to assert and enforce the human right to food in the Ethiopian legal system as Ethiopia is a state party to the international human rights treaties like ICESCR, CEDAW, and CRC which expressly stipulate on and endorse the human right to food as a fundamental human right.

In this sense, Article 13 (2) of the Constitution forces us to argue in the affirmative that the human right to food is a protected right by the FDRE Constitution. This means that the human right to food could be nationally applicable even if the Constitution does not include a provision in the bill of rights chapter that fails to make a direct and simple reference on the human right to food.

Moreover, the constitution under chapter 3 has recognized several broader fundamental human rights like the right to life, the right to security of person, and the right to liberty.¹⁰⁴ It can be said that all these broader human rights embody the human right to food.

Furthermore, Article 90 states that it aims to ensure access to public health and education, clean water, housing, food, and social security to all Ethiopians to the extent of the country’s resources permit. To give effect to such provision, detailed policies that identify the responsible organs and the period needed to implement the same would have been required and such policies could have served as major vehicles to realize the right to food in Ethiopia.

By way of summary, it can be stated here that the FDRE Constitution has three modalities in recognizing the human right to food, notwithstanding the lack of an express recognition of the right under its bill of rights chapter¹⁰⁵. First, the FDRE Constitution under Article 90 underscores the obligation that the state has to respect the human right to food, particularly to provide food to the needy, depending on the availability of resources at its disposal. Second, the constitution indirectly protects the Right to food through adherence to international treaties adopted by

¹⁰⁴ Ibid, art 15.16,17, respectively

¹⁰⁵ Yeshewas Ebabu Worku, *The Human Right to Food and the Post-1991 Ethiopian State’s Obligation: A Case Study on Simada Woreda and Gulele Sub-city: A Dissertation Submitted in Partial Fulfilment of the Requirements for the Degree of Philosophiae Doctor (PhD) in Human Rights*, p 18.

Ethiopia, which made a direct reference to the human right to food i.e. the ICESCR. Third, the constitution protects, among others, the human right to life which partakes the human right to food.

4.2. The Status of School Feeding Program in Ethiopia

Ethiopia has made important development gains over the past two decades, reducing poverty and expanding investments in basic social services. However, food insecurity and under-nutrition still hinder economic growth. As per the 2020 Humanitarian Development Plan (HRP), an estimated 8 million people (5.9 million people with acute food need, 3.9 million women and children are nutritionally vulnerable) require food assistance.¹⁰⁶

Despite these challenges, the Government aims to move the country to middle-income status by 2025, by sustaining rapid growth and speeding up structural transformation.¹⁰⁷ Also, Ethiopia declared to end child malnutrition by 2030 with the launch of the Seqota Declaration, on July 15, 2015 reflecting the government's strong commitment in improving nutrition and recognizing the role of nutrition to boost sustainable development and not to allow the current and future generation of children to be malnourished as they will suffer from productivity loss, poorer cognition and economic loss due to reduced schooling.¹⁰⁸

The indirect effect of climate extremes on education became clear in 2015-2016, when El Nino - a warming of sea-surface temperatures in the Pacific - hit an already drought-stressed Ethiopia, tipping it into the worst drought in 50 years.¹⁰⁹

Relief agencies reported that students were falling asleep or feeling sick in class, attendance rates fell and dropout rates spiked, as children were either too hungry to go to school or had to stay home to help their families look for food. Following this, the Ethiopian government launched a \$50-million emergency program in drought-hit rural areas, which gave about 6 million students free school meals over three years.¹¹⁰

¹⁰⁶ World food program, what the World Food Program is doing in Ethiopia <<https://www.wfp.org/countries/ethiopia>> accessed on 4 May 2020

¹⁰⁷ Ibid

¹⁰⁸ Ethiopia commits to ending undernutrition by 2030 with the Seqota Declaration <<https://scalingupnutrition.org/news/ethiopia-commits-to-ending-under-nutrition-by-2030-with-the-seqota-declaration/>> accessed on 5 September 2020

¹⁰⁹ Ibid

¹¹⁰ Ibid

Started initially by the WFP partial funding in Southern Region of Ethiopia a few years ago, the program is now taken over by the regional governments of Ethiopia. The regions are now allocating budget for the program, according to a report of Ministry of Education of Ethiopia.¹¹¹

The school feeding program is also included in the national education roadmap of the country. A report by the state broadcaster ETV indicated that to feed over 226,000 students, the Southern Region had allocated some 29 million birr (Over \$1 million).

Following the footsteps of the Southern Region, Oromia Region has also been working to formalize the school feeding program to stop the hungry students from a school dropout, according to the report, which indicated that farmers' cooperatives and unions have been involved in the production and supplying of food to the school feeding program¹¹².

In due course, five regions namely Oromia, Afar, SNNPR, Amhara, Ethio-Somalia, and Addis Ababa city administration have allocated 268,746,433 Birr in collaboration with WFP.¹¹³ As a result of this program, 843,146 students on 2,000 schools in the stated parts of the country started to be fed.¹¹⁴

As described above, the federal government provides rural schools with free food in times of drought. But one thing for sure is, drought in parts of Ethiopia makes food less available and more expensive nationwide, and so millions of students, including in the capital Addis Ababa, are going to school hungry. But the task of feeding students in the capital was long been left to charities. Supported by charity organizations, some schools in Addis Ababa have been implementing a feeding program where students are believed to attend classes empty stomach.¹¹⁵

Lower crop yields on farms across Ethiopia have resulted in declining food supplies to cities.¹¹⁶ The impact of drought that has been evident in Addis Ababa over the last four years, includes

¹¹¹ Newbusinessethiopia, 'Some 850,000 Students In Ethiopia Benefit From School Feeding' (NewBusinessEthiopia.com, January 9) <<https://newbusinessethiopia.com/education/some-850000-students-in-ethiopia-benefit-from-school-feeding/>> accessed 14 May 2020

¹¹² Ibid.

¹¹³ Hizkel Hailu, (n 18)

¹¹⁴ Ibid

¹¹⁵ Helen Getachew, (n 38)

¹¹⁶ Dagim Terefe, As Draught Strokes Urban Ethiopia dishes up free school meals (Reuters, July 8,2019) available at <<https://www.reuters.com/article/us-climate-change-ethiopia-drought/as-drought-stokes-urban-hunger-ethiopia-dishes-up-free-school-meals-idUSKCN1U30RW>>, accessed on 25 April 2020

soaring food prices and double-digit inflation, which put a massive financial strain on city dwellers already struggling with a lack of housing and high poverty rates.¹¹⁷

And for many children in Addis Ababa, according to the charity Habitat for Humanity, those high food prices mean going to school on an empty stomach.¹¹⁸ Based on reports from relief agencies, the trend had a negative impact on the performance of students and a school dropout rate was high. Students used to fall asleep in class and attendance rate was also poor.

This clearly captures the seriousness of the problem in Addis Ababa that changed in January when the Addis Ababa government launched its own school feeding program for tens of thousands of children, aiming to combat rising urban hunger.¹¹⁹ The massive student feeding program was launched back in September 2019 to benefit about 300,000 students in a bid to boost enrollment, reduce absenteeism and dropouts among school children.¹²⁰

On December 14, 2019, the Cabinet of Addis Ababa City Administration has approved the establishment of School Feeding Agency to sustainably supply educational materials and carry out the recently launched school feeding program in state-run schools of the Capital.¹²¹ The City-run program will cover from preschool to eighth grades in all public schools. The government says that it has planned program expansion to include students up to grade 12.¹²²

¹¹⁷ Ibid

¹¹⁸ Ibid

¹¹⁹ Addis Ababa City School Feeding Program for 300,000 needy students kicked off <<https://borkena.com/2019/10/14/addis-ababa-city-school-feeding-program-for-300000-needy-students-kicked-off/>>, last accessed on 8 March 2020

¹²⁰ Addis Ababa city to establish student feeding agency (Ezega news, December 2019) available at <[https://www.ezega.com/News/NewsDetails/7554/Addis-Ababa-City-to-Establish-Students-Feeding-Agency->](https://www.ezega.com/News/NewsDetails/7554/Addis-Ababa-City-to-Establish-Students-Feeding-Agency-) accessed on 4 May 2020

¹²¹ Ibid

¹²² Ibid

4.3. The legal framework to institutionalize School Feeding Program in Addis Ababa

The SFP program, launched in Ethiopia since 2005 and that of Addis Ababa City Administration in 2019, is a vital means of guarantying and securing the right to food of children living across the country most of whom are living under extreme poverty and food insecurity and as such steps are being taken to formalize the project through law and institution. One of the indications of such steps being taken is the promulgation (enactment) of a proclamation and subsequent regulation for the establishment of Student Feeding Agency in Addis Ababa City Administration

4.3.1. Addis Ababa City Government School Feeding Agency Establishment Proclamation No. 68/2020

The city administration enacted the proclamation with the aim to conduct a systematic and coordinated implementation of student feeding and provision of educational aids program in public schools owned by the Addis Ababa City Government, to increase student engagement by reducing malnutrition, and health problems students are facing and to reduce students who are dropping out of school and to provide means to children who do not have access to education¹²³.

As provided under article 7, One of the basic objectives of the Agency is to help sustain the already started school feeding and educational materials provision program and to institutionalize the thereof.¹²⁴

Other than providing school meals, the agency is also entrusted with facilitating the provision of educational materials, student's uniforms, and sanitary napkins for girls.¹²⁵

¹²³ The Addis Ababa city government school feeding agency establishment Proclamation, 2020, preamble, Proc.No. 68, Neg. Gaz. 28th year No.68

¹²⁴ Ibid, art 7(3)

¹²⁵ Ibid, art 13 (4) (10)

4.3.2. The Addis Ababa City Government School Feeding Agency Procedure Regulation No. 112/2020

After the proclamation, regulation has also been enacted for the implementation of the same. The regulation is enacted to establish a transparent and accountable procedure that helps the agency to carry out its mission.¹²⁶ The regulation tries to put implementation procedures for the school feeding and educational materials provisions by the agency as well as define the roles and coordination of different stakeholders to maximize the proper implementation of the program.

4.3.3. The General Education Proclamation [Draft]

The newly drafted General Education proclamation is another indication of the government's commitment towards materializing the school feeding program, not only in Addis Ababa but throughout the country. As it is Federal Legislation applying to Federal and all regional educational institutions, it will definitely contribute to the formation of a national school feeding program. At the same time, it will strengthen the already started Addis Ababa School Feeding.

The draft proclamation obliges the government to provide food to students in public pre-elementary, elementary, and junior secondary schools (up to grade 8). And, it indicates that details will be determined by guidelines to be issued by the Ministry.¹²⁷

¹²⁶ The Addis Ababa City Government School Feeding Agency Procedure Regulation, 2020, preamble, Proc.No.112, Neg. Gaz. 28th year, No.36

¹²⁷ The General Education Proclamation, 2020, article 74 ((draft, unpublished))

Chapter Five

Right Based Analysis of the Addis Ababa City Administration's School Feeding Program

5.1. Introduction

Before the establishment of the agency that aims to create consistency in the implementation of SFP in the Capital, around 110 institutions and individuals, local and non-governmental organizations, religious institutions, and charitable organizations were working to provide school meals and sanitation materials, to help decrease dropouts and low performance.¹²⁸ Accordingly, some 30,000 students were receiving support and education in 220 elementary and early elementary schools across the city.¹²⁹

According to a 2014 survey conducted by the Addis Ababa City Administration School Bureau along with the women and children Bureau, more than 20,000 children are in poor health and have difficulty attending school.¹³⁰ As per the data collected from 11,682 children in 220 primary schools in Addis Ababa, 26.5% of vulnerable primary school students eat once a day, and 15.8 percent may not even eat the whole day. And surprisingly, 14.7% of the students in the study were beggars.¹³¹

Later in 2015 GC, a relatively organized school feeding program was started, by a charitable Association called, Yenat Weg, under the leadership of the then First Lady, Roman Tesfaye, with the support of the Addis Ababa City Administration School and Women and Children's Bureau leaders and professionals.¹³²

As a result, more than 22,000 underprivileged students in 220 elementary and early elementary schools were being supported by Enat Weg Association as well as teachers and school community, governmental and non-governmental organizations, individuals, and various charities.¹³³ More

¹²⁸ Addis Ababa City Government School Feeding Agency Organizational structure study Document, p. 3

¹²⁹ Ibid

¹³⁰ Addis Ababa City Government School Feeding Agency, Meti Tamerat, public schools feeding program annual report presentation, 2020, slide 5

¹³¹ Addis Ababa City Government School Feeding Agency, study conducted regarding the school feeding and education materials provision program, march 2020 ((unpublished))

¹³² Ibid

¹³³ Ibid

than 10,119 government students in the elementary and early elementary schools were taken to be benefited from the feeding program.¹³⁴

However, as Ms. Anchinesh Tesfaye, Head of Addis Ababa School Feeding Agency, elaborated, the provision that was being given by such institutions proved to be inconsistent and targeting only selected beneficiaries who were considered as the poorest.¹³⁵ Feeding students on such an approach created psychological torture and it was noted that there was some psychological difference between those who participated and those who did not. As a result, it had been realized that there were students who are hesitant to be selected as beneficiaries, even though, they are in need. Therefore, the city government has decided not to allow this psychological discrepancy and initiated the program to allow all students to participate equally.¹³⁶

According to the City Administration School Feeding Agency Organizational Structure document that was prepared to establish the Agency, Education is the right of every citizen which is important to the development of the nation and the unifying role of the nation's development.¹³⁷ The document makes its basis on Article 36 of the FDRE Constitution and Article 28 of the CRC that stipulates children's right to education, for which, the Government of Ethiopia is working hard to provide quality education to all citizens of all ages.¹³⁸

5.2. Analysing the legal and institutional initiatives

Truly speaking, considering the starting time, the overall SF project and the subsequent initiatives taken by the city administration can be said that they are at the initial stage to be analyzed. And so, the initiative by itself shall be praised than being criticized. However, the writer believes that, while praising what has been done, we need to dig deeper and trace the shortcomings of the project in a way that can contribute to the sustainability and growth of the project. Therefore, as this study puts it from the beginning, the program has to be analyzed from a right-based perspective, as the writer strongly believes that SFP is one type of vehicle to drive the fulfilment of child right to food

¹³⁴ Ibid

¹³⁵ Interview with Anchinesh Tesfaye, Director at Addis Ababa School Feeding Agency, (Addis Ababa, 1 September 2020)

¹³⁶ Ibid

¹³⁷ Agency Organizational structure study Document, (n. 126)

¹³⁸ Ibid

along with other indivisible and interrelated Human rights. Moreover, the writer believes that it is worth investing time and resources in this venture, as SF programs that apply a right to food approach have better and more sustainable outcomes in reducing food insecurity and improving nutrition.

By going through the Agency establishment documents and other related studies conducted to organize the institution, we can understand the true intention that derived the government to institutionalize the school feeding program among the state-run elementary schools of the City. As indicated above, the establishing proclamation, in its preamble, described that it was enacted with the insight to conduct a systematic and coordinated implementation of student feeding and provision of educational aids program in public schools owned by the Addis Ababa City Government, to increase student engagement by reducing malnutrition, and health problems students are faced with and to reduce students who are dropping out of school and to provide means to children who do not have access to education.¹³⁹

In reading this and the whole document, one can understand that the Government is trying to commit itself in respecting and protecting children's rights, for instance; child right to health and most importantly Child right to Education. However, the most related and fundamental Human right that should have been linked with such a project, the right to food, is not explicitly indicated. Of course, there are few indications of prevention from malnutrition and hunger, and one can say that the right not to suffer from malnutrition is an indication of the right to food, but the government doesn't seem to want to take responsibility with explicit recognition of this right.

As Ms. Anchinesh explained, the program was initiated, at the government level, with the prior aim to ensure that children are not out of school because of food shortage and lack of education materials supply as well as to play its part of the social responsibility and civic engagement.¹⁴⁰ According to her, we have not reached the level of recognizing the right to food in the implementation of the program, as the government doesn't have enough preparation and adequate resource to take the accountability that might come with the explicit recognition of the right to food.¹⁴¹

¹³⁹ Proclamation no 68/2020, (n 121) preamble

¹⁴⁰ Interview with Anchinesh, (n.132)

¹⁴¹ Ibid

Dr. Fekadu Mulugeta, member of the Board, also reflected that for now, the program is more of an intervention that aims to eliminate dropouts and related problems that came with hunger and food shortage and to ensure quality education for the children.¹⁴²

In fact, integrating the right to food into food and nutrition program activities may not be easy, and rather it needs, Political commitment, knowledge, and skills for implementing the right, strong institutions, civil society participation, and access to justice and recourse mechanisms for right holders.¹⁴³

5.3. Charity or Entitlement?

As discussed above, under human rights law, school-feeding programs are one way of ensuring the right to food of school-going children.

Rights-based school meal system activists agree that children should have a clear sense of what they should and should not be receiving while understanding that they are not merely recipients of charity, but are instead entitled rights-holders. Moreover, children should have a means of remedying or changing the system if they are not receiving the adequate quality and quantity of food; they should also know who is accountable for the food and feel that they have the right to speak out when they do not receive their due.

This takes us to question how much has been done by the Government to promote the right to food throughout the society as part of its obligation. The government's duty to promote enables the right holder to exercise their rights and duty-bearers to understand the root causes of the problem and to take the necessary steps to fulfill their obligations.

Ms. Anchinesh explained the reason why the establishing documents do not make any reference to the right to food by noting the program is only at the initial stage and it requires more preparation and maturation from the government side to upgrade the program into the right based approach

¹⁴² Interview with Fekadu Mulugeta (PHD), Management Board Member of Addis Ababa School Feeding Agency, (Addis Ababa, 21 September 2020)

¹⁴³ FAO, Guidance Note: Integrating the Right to Adequate Food into Food and Nutrition Security Programmes, (2012) < <http://www.fao.org/3/i3154e/i3154e.pdf> > last accessed 20 may 2020

and subsequent accountability.¹⁴⁴ Now the agency's focus is more related to creating an enabling environment for school meals and supply of school materials, for those who are in need.

The above being said, other than creating an enabling environment for school meals, the government has to work in promoting the program as one demonstration of the right to food. Otherwise, students might still think that they are being offered to school meals as of charity, not an entitlement. This will underrate the achievement of the City Administration as evaluated from a right based perspective.

According to FAO's guidelines "awareness-raising must be carried out from the outset of the program cycle and should continue through all the program phases as part of the activities and expected results of program implementation"¹⁴⁵

According to Meti Tamrat¹⁴⁶, the program's coordinator at the Addis Ababa Education Bureau,

"Education for all is a global motto and access to education is a matter of right, so the city government has a responsibility to feed students," But she believes that, "it is still too early to measure the impact of the city government's initiative".

As indicated earlier, the writer is with her in this assertion. The A.A City Administration along with the Education Bureau took an admirable action to support child right to Education, which is, of course, another fundamental human right to children. The government brought the program from being a mere charity and unorganized project to a more systematic and coordinated intervention program to help enhance child right to education. Now, almost all students throughout the state-run elementary schools are being fed regularly, which brought a visible change in their health and education. However, unless this program is established on an unshakable base, which in this case is child right to food, it might not sustain as it is right now. The structure should create an enabling environment for the existence of right holders and duty bearers, in which the latter can be held responsible whenever the former is denied his/her entitlement. There is a clear consensus

¹⁴⁴ Interview with Anchinesh (N.132)

¹⁴⁵ FAO, 2012 (n.140)

¹⁴⁶ Interview with Meti Tamerat, school health and nutrition expert and Program coordinator at Addis Ababa Education Bureau, (Addis Ababa, 20 March 2020)

among human rights scholars on the point that ‘‘with no effective remedy there is no effective right’’.

5.4. Complaint and follow up Mechanisms

As strongly argued, national governments hold the responsibility for the implementation and realization of the right to food. In this regard, although international law does not specify the character or exact level of assistance that is required, it is clear that people must not be allowed to go hungry and governments should work to eliminate hunger. Therefore, right holders should have the opportunity to vocalize their opinions and must have some institutionalized remedies available to them that they can call upon if they feel they are not being treated properly. People should feel they are able to speak out if their rights are being violated¹⁴⁸.

Kent argues that a well-developed rights-based school meal program should consist of three main roles: the rights-holders, the duty bearers, and the agents of accountability.¹⁴⁹ The agents of accountability should ensure that those who have certain obligations to rights-holders have carried out their duties. Such a framework implies that rights holders must know the nature of their rights and should have a means of contacting and seeking remedies from agents of accountability; duty bearers must know their duties corresponding with the rights of the rights-holder, and agents of accountability should ensure proper implementation.¹⁵⁰

Coming to the A. A City Administration SFP, there is a compliant mechanism stated under the Agency Establishment Proclamation and the draft policy directive as one of the mandates of the Management Board of the Agency.¹⁵¹ As per these documents, the management board has the mandate to Investigate and render complaints lodged against the Agency and pass decisions. Moreover, it is one of the duties of the Agency to ensure if the school feeding program is focused on the health, hygiene, and nutritional improvement of students¹⁵². This might be taken to mean

¹⁴⁸ George Kent (n.57)

¹⁴⁹ Ibid

¹⁵⁰ Ibid

¹⁵¹ Proclamation No 68/2020 (n. 121) art 10(3) and the draft directive art 10(3)

¹⁵² Proclamation No 68/2020, (n.121) art 13.

the feeding program is more than just an aid project rather it aims to respect, protect, and fulfill internationally and nationally recognized child rights.

However, with detailed laws and rules missing, we cannot just conclude that the right holders to the SFP are given the right to access to justice or recourse mechanism when their rights are violated in materializing the program. Does it safely mean, the fact that the Agency's responsibility to ensure the school feeding program is focused on health, hygiene, and nutrition will result in promoting students' right to stand for themselves and rightfully claim for any remedy there should be? What kind of complaints are going to be lodged to the Board by the society? Do parents (representing children) can sue the Agency for not providing the proper nutritional meal to their children? What kind of remedy is provided for those who bring their complaints to the Board? To what extent is this compliant procedure allow the right holders to go? Is there any appeal procedure? Are we talking about real legal complaints or just normal critics that can be filed with the Board and the Board will just promise to correct the irregularities and end the procedure?

According to Dr. Fekadu, there is no platform created for students or parents to formal recourse mechanisms when they feel like their rights are violated.¹⁵³ The Board is more or less trying to intervene in major issues whenever referred by respective management established to supervise and follow-up the program at school levels. Thus, the concerns are more about developing a consistent diet; ensuring the support provided by individuals or institutions is properly implemented; ensuring food contract is not interrupted by different food providers; preventing health problems, and ensuring the overall continuity of the program.¹⁵⁴ Anchinesh and Meti also take the same stand on this.

Also, the existing legal and institutional framework, being at its infant age, does not answer all these things. But one can induce that, unless the government takes clear responsibility of its duty to respect, protect, promote, and fulfill the right to food, the above questions will remain unanswered. Consequently, this could create an overall loose structure and might deviate from its international standard of providing school meals through right based SFPs.

¹⁵³ Interview with Dr. Fekadu (n. 139)

¹⁵⁴ Ibid

5.4.1 Lack of compliant procedure

Kent explains that schools utilizing a rights-based approach to school meals should create a School Feeding Committee where students and staff members work together to take complaints to the appropriate authorities.¹⁵⁵ Kent also points out that these committees should prepare statements on the rights of children including details about the content of meals, about duties of all parties involved, and about accountability mechanisms including the committee's role in ensuring accountability of duty-bearers and transferring complaints to the appropriate authorities.¹⁵⁶

Generally, monitoring the Justiciability of human rights in Ethiopia is in its infant stage, with no developed legal framework and poor judicial practice. The provisions of international human rights treaties are rarely invoked in the courts are not deemed not justiciable unless they are clearly guaranteed in domestic laws.¹⁵⁷

The Federal Administrative Procedure Proclamation provides for judicial reviews of administrative actions of all federal administrative agencies including the administrative agencies of City Administrations accountable to the Federal Government.¹⁵⁸ Thus, decisions and directives issued by the SF agency are subject to judicial review pursuant to this proclamation. However, the grounds for judicial review are limited and cannot satisfy all grievances that could arise from human rights violation of the AA SF Agency. Non-discrimination, predictability, reasonableness, good faith and transparency are few of the grounds which could be considered as grounds of judicial review of administrative actions.¹⁵⁹

Any person has the right to request an administrative decision or a service from an authorized administrative agency, even though an administrative agency has not adopted a directive.¹⁶⁰ Therefore, with compliant procedure missing from the Addis Ababa School feeding Agency proclamation and directives, we may hold to the thought that, one could base his/her arguments on

¹⁵⁵ George Kent (n 57), P. 9

¹⁵⁶ Ibid

¹⁵⁷ Sisay Alemahu Yeshanew, 'The Justiciability of Human Rights in the Federal Democratic Republic of Ethiopia' [2008] 8(2) African Human Rights Law Journal

<https://papers.ssrn.com/sol3/Data_Integrity_Notice.cfm?abid=1530825> accessed 16 May 2020 p. 286;

¹⁵⁸ The Federal Administrative Procedure Proclamation No. 1183 /2020, Federal Negarit Gazette No. 32, April 7th, 2020, Article 2(1) and 48

¹⁵⁹ Ibid, art 32. 34, and 35

¹⁶⁰ Ibid, art 4 (3&4)

the federal administrative procedure proclamation, to address his/her claims against the school feeding agency.

Yet Dr. Fekadu briefly explained that the Management Board or even the Agency has not entertained any complaint so far and it is not even entrusted with such a detailed task other than reviewing and intervening on few major issues that might arise in the implementation of the program.¹⁶¹ For instance, once, there was a rumor about children being poisoned taking the school meals in Lideta sub-city which created a disturbance among the school community, parents, and the society, for which they intervened to cool down the situation and take the necessary measure which they think were right at the time. Moreover, a management team, among the teachers, has been established in each school to supervise and follow up on the proper implementation of the program. The team is entrusted to watch out every procedure and come up with reports incorporating achievements and challenges of the program. Based on that the Board might intervene in places which it thinks require its involvement for the betterment of the program.¹⁶² Other than that there is no recourse Mechanism for students or parents to claim the school meal as of right.¹⁶³

5.5. The prospect for the promotion of the right to food in the SFP

As Meti explained basing the annual report from the Agency, in 2019 more than 311,523 students benefited from school meals in a total of 241 public elementary and early elementary school in the city. The school feeding program has also created jobs for 6,969 unemployed mothers. The report shows that school nutrition has a statistically significant effect on learning and attending classes. Participating in a school feeding program is increasing test scores by 15.7 percent.¹⁶⁴ As the program is available to all students in the schools, it is creating a feeling among the children that they are taking school meals not because they are poor but because it is their right to eat.¹⁶⁵

From this, one can understand that the program has brought a visible and positive impact in improving beneficiaries' health and quality education status. This being the case, as we have discussed throughout this paper, the right based approach appears to be more effective in different

¹⁶¹ Interview with Dr. Fikadu (n 139)

¹⁶² Ibid

¹⁶³ Ibid

¹⁶⁴ Interview with Meti (n 143)

¹⁶⁵ Ibid

aspects. In implementing the right-based approach the principles of participation, non-discrimination, equality, accountability, and interdependence of human rights will be explicitly observed.¹⁶⁶ These briefly explain some of the basic principles of the rights-based approach which may strengthen school feeding programs and may enhance the prospect of promotion of the right to food in Ethiopia through rights-based programs, policies, and legislation.

Ms. Anchines elaborated that it is the close observation of the suffering of school children that led to the starting of school feeding programs in Addis Ababa. It also appears that the practices of school feeding programs initiated in different parts of Ethiopia have been conditioned by such a practice, and it is too early to implement a rights-based approach school feeding program.¹⁶⁷ However, the Agency is working hard to reach that level and she believes that the right based approach would benefit the formality and sustainability of the program. It just not yet the time.¹⁶⁸

All in all, the writer believes that if emphasized in the future in Ethiopia, the right based approach to school feeding programs, will go further than ensuring the approach which aims to fulfill the biological needs of students and it will become more of an entitlement than being a mere intervention or security program.

5.6. lack of explicit recognition of the right to food

As discussed throughout the paper, rights-based SFP appears to have better and more sustainable outcomes in reducing food insecurity and improving nutrition.

The principle of accountability is one of the important phenomena that arise from the right to food in implementing school feeding programs. It establishes an obligation to answer complaints or claims raised by the right holders, as the rights-based approach requires the development of laws, administrative procedures, and practices and mechanisms to ensure the fulfillment of entitlements, as well as opportunities to address denials and violations.

As discussed above, the Addis Ababa City Administration SFP mainly focuses on the right to education and doesn't give explicit recognition of the right to food. Of course, all human rights are indivisible and interrelated to each other, which implies that the realization of one right depends

¹⁶⁶ Helen Getachew (n. 38) p 65

¹⁶⁷ Interview with Anchinesh (n 132)

¹⁶⁸ Ibid

wholly or in part on the realization of the others. This being said, one may ask, if the right to education is integrated into school feeding programs, doesn't it help to promote other human rights such as; the right to food? However, the argument here is that the right to food is the most related and linked human right in materializing SFPs, for the reason that SFPs are the main instruments of ensuring the right to food of school-going children. The basic principles of the right-based approach are to strengthen school feeding programs and enhance the prospect of promotion of the right to food through rights-based programs, policies, and legislation.

In the definition given by the economic, social, and cultural rights Committee, there is a phrase "...access at all times to adequate food..." which for many scholars means that access to safe and nutritious food is a component of the right to adequate food.¹⁶⁹

This underlines the right of everyone to have access to safe, sufficient, and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities.¹⁷⁰

Therefore, the right to food raises the question of responsibility and accountability of the duty bearer which implies an obligation to provide special programs for the vulnerable. It also requires the duty bearer to ensure freedom from hunger and starvation and to take the necessary measures to ensure the protection of this right. In general, though, SFPs are intervention programs implemented at schools for school going children and is one way of fulfilling the state's obligation that arises from the right to education, SFPs are also the responsibility of the government that arises from the obligation of promoting and protecting the right to food.

Unless Addis Ababa Administration SFP gives explicit recognition to this right, the right holders may face difficulty to claim their right against any violation, inadequacy, nutritious or cultural content, and the like. And, school meal programs will generally be considered as a manner that promotes children's passive acquisition of food rather than right.

¹⁶⁹ ICESCR, General comment 12 (n 10)

¹⁷⁰ Ibid

5.7. What are the lessons to be learned from the experiences of AA city Administration SFP for further application to the whole country?

According to the ministry of education's emergency school meal plan for 2019, more than 1 million children in drought-affected areas are still coming to school hungry.¹⁷¹ The Famine Early Warning Systems Network has warned that the majority of households in five regions of Ethiopia face a crisis-level food shortage through September 2019 due to a combination of drought and conflict.¹⁷²

As discussed all over the paper, it is the responsibility of the government to provide food through food and nutrition service programs for those who are unable to feed themselves as a result of emergencies or conditions of extreme poverty.

The SFP program launched in Addis Ababa City Administration in 2019 is a vital means of guarantying and securing the right to food of children living across the country most of whom are living under extreme poverty and food insecurity. However, since the right to food as discussed above is children's human right under many international legal instruments the SFP provided by the government of Ethiopia should be taken seriously and the program's sustainability and its accessibility must be for all children across the country.

Ato Bereket Takele, advisor for the school meals program at the Ministry of Education, said that, as Addis Ababa works to stop rural droughts hurting education in the city, the federal government is looking to launch another feeding program that will support children all over the country.¹⁷³ Instead of offering free school meals only in emergencies, the federal government wants to implement an ongoing program in all primary schools.¹⁷⁴

Ms. Anchinesh also indicated that the government is working to formulate an institutionalized national school feeding and expand the program throughout the country. Just recently, Ministry of education, other than including SFP in its newly drafted Geenral Education Proclamtion, has

¹⁷¹ Dagim Terefe, Ethiopian children will receive free school meals amid draught (Reuters 8 July, 2019), <<https://www.globalcitizen.org/en/content/free-school-meals-offered-to-children-in-ethiopia/>> last accessed on 14 May 2020

¹⁷² Ibid

¹⁷³ Ibid

¹⁷⁴ Ibid

distributed a circular, to all administrative and regional states, instructing the implementation of school meal programs in their respective areas.¹⁷⁵

Therefore, the experience of the Addis Ababa Administration may be used to show the potential of school feeding program in the promotion of the right to food in Ethiopia. It shows the importance of how legislation and institutions to have a coordinated and systematic intervention programs. Moreover, lesson shall be taken from the critics raised on the capital's initiatives on how school feeding programs informed by the rights based approach could be effective in working to end the suffering of millions thereby ensuring the rights to food for children and potentially to all members of the society in need of food.

Plus, other than depending on global organizations such as the WFP which forefront in provide food aid to promote and help to conduct school feeding programs around the world, the Addis Ababa experiences underscore the significance of locally rooted programs and institutions, and the importance of home-grown initiatives in sustaining and expanding the scope of school programs thereby contributing and promoting the rights to food for all children.

¹⁷⁵ Interview with Ms. Anchinesh, (N. 132)

Chapter Six

Conclusion

As discussed throughout the paper, from a human right perspective, SFP is a targeted intervention program designed to provide educational and health benefits to vulnerable children with food insecurity and above all, to enhance the realization of child right to food. Meaning, SFP greatly contributes to the realization of a wide variety of human rights. And the key human right is the human right to adequate food, along with the rights to education and health.

Although most prominent writings on the right to food focus on the child right to food in general terms, a little or less is done domestically on school feeding program from children's human right point of view.

Most state practices regarding school feeding program focus on an immediate solution to the problem of child hunger and school dropout. This conventional way of approaching school feeding program from the need-based perspective remains unchallenged to this day. However new developments are emerging as new scholars and human right activists across the globe are pushing the right to food of children, at their core of principal campaigns.

In Ethiopia, Some 850,000 students mainly from elementary schools are currently benefiting from the school feeding programs being implemented in different parts of the country. Started initially by the WFP partial funding in the Southern Region of Ethiopia a few years ago, the program is now taken over by the regional governments of Ethiopia.

In the capital Addis Ababa, the task of feeding students in the capital was long been left to charities. Supported by charity organizations, some schools in Addis Ababa have been implementing a feeding program where students are believed to attend classes empty stomach.

Later in 2019, the Addis Ababa City Administration launched a school feeding program for 300,000 needy students in the capital. Now, the City-run program is covering from preschool to eighth grades in all public schools. The City Government even took exemplary legal and institutionalized reform by establishing a school feeding agency that is entrusted with proper execution and supervision of the program.

As part of a reform, the governments' action towards institutionalizing the program is something that has to be appreciated and praised. It is even possible to say that some principles that are incorporated in the programs are in line with the right based approach. For instance, there is monitoring mechanism by the by the SF agency and the Management Board as well, even though the extent to which they do so is not clear. In addition, to some extent, the principles of equality and non-discrimination are also being applied as all children in public schools from pre elementary to junior high are beneficiaries, without any discrimination. Moreover, follow-up committee has been established in each school to which students can come and express complaints though the complaints do not go further.

To conclude, what is missing from the Addis Ababa school feeding program is, the fact that it is not backed by the right based approach. And as discussed, the role of School feeding in the realization of human rights to food could be highly significant when such programs are approached from the perspective of the rights-based approach as the approach advocates the principles of accountability, participation, transparency, and non-discrimination.

As the program has brought visible impact in the improvement of children's nutrition, health, and education quality, it would bring a lot more positive effect if implemented appropriately from a child right perspective in the City and Nationwide as well.

Recommendation

- As the FDRE constitution doesn't give explicit recognition to the right to food, legislative reform will be needed to implement and enforce the right. Engaging in a participatory process, the Ethiopian government should establish applicable legal requirements for mechanisms of accountability and a legal right of redress. At least, making the main component of the right to food, that is, the right to be free from hunger a justiciable right would somehow give meaning to the promotion and realization of the right to food in Ethiopia.
- However, merely articulating children's right to be free from hunger in law and policy is not enough. What matters is the extent to which the instruments enable children affected by hunger to claim genuine accountability from government and the extent to which governments become critically self-aware and provide children with access to nutritious food as a minimum core obligation. Therefore, the government has to develop an enabling environment to promote, protect, respect, and fulfill the right to food in action, as it is crucial for the enjoyment of other rights.
- As discussed, SFP has the potential to serve as a springboard for the realization of a wide variety of human rights. And the key human right is the human right to adequate food, along with the rights to education and health. Moreover, the right based approach may help transform the already started Addis Ababa school feeding program as one of the ways to realizing the right to food. The government should not see the program as a mere charity project but should recognize it as an entitlement; a human right to food, for which children can claim their right through and the government could be held accountable for. This would also allow children to have legal recourse and seek redress when their right to adequate food is violated, through administrative and judicial processes at the national level, as well as through the complaints mechanisms available under child rights treaties.
- The Addis Ababa City Government SFP has to be transformed to the level of accepting right based approach, to which the right to food is the centre of assessment. With this level, the program has to be expanded to the national level so that every child in every region of the country could benefit from the program. An institutionalized National School Feeding

program has to be established with a permanent legal and policy framework to guide school feeding programs and allocate adequate resources all over the country.

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