

**The Human Right to Water in Ethiopia: *the case of
Badusa Betela Community***

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**A Thesis Submitted to Center for Human Rights Presented
in Partial Fulfillment of the Requirements for the Degree of
Master of Arts in Human Rights**

Addis Ababa University

Addis Ababa, Ethiopia

July 2014

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
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Betela Community***

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Declaration

I, the undersigned declare that this thesis is my own original work. To the best of my knowledge, it has not been presented for a degree in any university, and all sources of materials that are used for writing this thesis have been duly acknowledged.

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Acknowledgement

First and for most I want to give thanks for the glorious God who lead my way from birth and full my heart and mind with AMDG. My special acknowledgment is extended to my Adviser Abdi Jibril who shared his valuable guidance and precious advice on time. I also wish to express my special gratitude to Kalkidan Aberra Instructor at Centre for Human Right who gives me guidance and materials during the conception of this paper.

I owe my special acknowledgment and thanks for my mother Ketmash Wolde who gives me everything. Ema I finish it and I want to say you thanks for the continuous question about the time of finishing this paper. I owe my deep and special thanks to my father Tekle Yacbo who put the courage's words in my clean and white mind at the time of my childhood. Brothers and sister (Adi,Efercho,Dani &Woyena) you are so especial who want your litter sister to be successful.I want to say you thank you and bless you for all the supports.

Friends I really thanks for your patient and sharing my responsibilities in those two years. Friends at Lideta Catholic Cathedral, Human Right Centre and work especially Kal thanks a lot. I am blessed to be part of my life.

I really want to acknowledge the support of the ECS, ECC-SDCOM and CRS Ethiopia staffs specifically Ato Berhanue, Ato Bekele, Ato Messle and Ato Lemma for the completion this paper. My sincere gratitude goes to the Woreda Water, Mineral and Energy Bureau and the Bedesa Betela Kebele workers who give me their precious time. My deep and earnest gratitude goes to the Badusa Betela Community who devoted their time and shared their experience including the lunch you serve me with full kindness. Last but not least Abrish I owe you the acknowledgment for your encouraging words and your guidance on the SPSS.

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List of Abbreviations and Acronyms

ACHPR African Charter on Human and Peoples Rights

CMCE Committee of Ministers of Council of Europe

CRS Catholic Relief Service

CESCR Committee on Economic, Social and Cultural Rights

DPSP Directive Principles of State Policy

ETB	Ethiopian Birr (Ethiopian currency)
ESCRs	Economic Social and Cultural Rights
ECC-SDCOM	Ethiopian Catholic Church Social Development Coordinating Office of Meki
FTC	Farmer Training Center
FDRE	Federal Democratic Republic of Ethiopia
FGD	Focus Group Discussion
FAO	Food and Agriculture Organization
HWTS	Household Water Treatment and Safe Storage
HRW	Human Right to Water
HRC	Human Right Council
HDR	Human Development Report
IHC	International Humanitarian Community
ICESCR	International Covenant on Economic Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
IHC	International Humanitarian Community
JMP	Joint monitoring program
KII	Key Informant Interview
NPPO	National Policy, Principles and Objectivities
MDG	Millennium Development Goal
MWR	Ministry of Water Resource

MoFED	Ministry of Finance and economic development
MWIE	Ministry of Water, Irrigation and Energy
MoH	Ministry of Health
MoWEPRCD	Ministry of Water and Energy public Relation and Cooperation Department
MCS	Meki Catholic Secretariat
OHCHR	Office of High Commissioner for Human Right
OWNP	One WASH National Program
TDS	Total Dissolved Solids
UDHR	Universal Declaration of Human Rights
USD	United State Dollar
UN	United Nations
UNDP	United Nation Development Program
UNGA	United Nation General Assembly
WASHCO	Water, Sanitation and Hygiene Coordinating Office
WTO	World Tread Organization
USD	United State Dollar
VDPA	Vienna Declaration and programme of Action
PASDEP	Plan for Accelerated and Sustained Development to End poverty
GTP	Growth and Transformation Plan v

Glossary of Amharic Terms

Ato Mr

W/ro Mrs.

W/rt Ms

Kebele lowest administration unit in Ethiopia

Woreda District

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Abstract

This study examines the Human Right to Water (HRW) in Badusa Betela community. The study employed both quantitative and qualitative approach to examine the level of realization of HRW, the corresponding state duties, challenges and prospects of the HRW and the impact of the HRW on some selected socio-economic and civil rights. Both primary and secondary data which are collected through semi-structured interview, focus group discussion, key informant interview, household survey, document review, case study and direct field observations were utilized.

The study reveals that the core minimum requirements of the three normative contents of the HRW (i.e availability, accessibility and quality) which the state parties are required to achieve immediately are below the standard in the study area. This is because the measures taken by the government in collaboration with civil society have not been successful.

The study also reveals that the state as well as non-state actors is involved in the realization of the HRW in the community but the measures taken have not been successful. As a result the HRW for this community become a dream. Lack of water has negative impact on the right to food, work, education, freedom of religion and rights of women and children.

There are also measures that are undertaken and planed to be implemented for the realization of HRW. Challenges for the realization out weight its prospects. Therefore, the state should cooperate with civil society and implement a sustainable project on water services and facilities to achieve the core minimum obligation as soon as possible. It should enhance the level of HRW in this community by reducing the challenges and increasing the prospects.

The study also reveals that Water, Mineral and Energy Bureau at Woreda level has budget and skilled human power deficiency. Therefore, government and other stakeholders should reconsider budget allocation and supply of technical support to ensure sustainable water supply and facilities for the community. This will result in multi-dimensional improvement in human rights of individuals in the community.

Key Words: Human Right to Water, Core Minimum obligation, availability, accessibility, quality and Bedusa Betela Community.

Chapter One

Introduction

1.1. Background

Water is one of the basic needs which are vital for the survival of human beings. It also plays a vital role in agriculture, energy, health, biodiversity and ecosystem as well as in combating poverty (Scanlon et al, 2004). Human beings cannot survive without water and research by the U.S Geological Survey provides an average estimation that human beings can only survive a week without water (Ogunjimi, 2013). Water resource is also one of the most abundantly found resources for which 70% of the earth is covered with it (Ibid). However, from the water resource on earth 97% of it is *saltwater and unfit for direct consumption* and only 3% of the water resource is freshwater (Cuq, 2011). The 3% fresh water resource on the earth is not available and accessible for consumption; from this only 0.25% is available for use (ibid). The above data shows that fresh water is the most essential human need and scarce resource in the world.

Ethiopia is one of the countries in the world which are gifted with their water resource. The surface water resource of the country is remarkable, but little developed and the groundwater potential is not known definitely and so far only a small fraction of the ground water has been developed mainly for local water supply purposes (FAO, 2012). While traditional wells are widely used by pastoralists, neither desalinization nor treatment of waste water is practiced by this community (Ibid).

The fact that Ethiopia is rich in water resource has not given Ethiopians an opportunity to have available, accessible and quality water supply system and researchers show that more than 46% of the population of Ethiopia does not have access to the required quality and quantity of water for consumption until 2013 (Butterworth et.al, 2013).

The problem of portable water supply in Ethiopia is obvious but it becomes worst in rural part of Ethiopia. Researches show that the source of water for people who live in rural part of Ethiopia are river or lakes (32%) , unprotected well or spring (42%) and protected well (25%) (UNDP, 2006). This created interest on the researcher to assess the fact on this issue. Dodota Woreda is one of the 14 Woredas in Arsi Zone having a rural population size of 63,

000. In this Woreda there are 12 rural Kebeles. This study will be conducted in one of the rural Kebeles in this province where the problem of water is visible which is called Badusa Betela with a population size of 4,819.

1.2.Statement of the problem

All human rights are indivisible, interdependent, interrelated and they generate equal input for human dignity (VDPA, 1993). Therefore, States are required to take appropriate legislative, administrative, budgetary and other measures to respect, protect and fulfil the realization of ESCRs of citizens (Maastricht guidelines, 1997).

Ethiopia is the member of most of the international and regional human right instruments including the International Convention on Economic Social and Cultural rights (ICESCR)¹. To improve the life of its population as well as to observe the human right obligation of the state towards the people that include improving the status of clean water supply, the government of Ethiopia developed so many strategies, policies, guidelines and laws (PASDEP, 2005/06, GTP, 2010/11, Procl.No 281/2008; water policy and Strategy). By doing so the country started its human rights obligation to respect, protect and fulfil the realization of this right. Even if these measures are commenced statistics show that 46% of the population at country level and 51% of the rural community in Ethiopia does not have access to portable water supply at the beginning of 2013 (Butterworth et.al, 2013).

The above statistical data show that the problem of portable water is visible in Ethiopia. Dodota is not an exception. Specifically, communities who live in Badusa Betela Kebele do not have access to the required quality and quantity of water for consumption. The researcher has the opportunity to observe the phenomena in this Woreda. The communities in this area use rain water in rainy seasons and travel more than three hours to fetch water from the nearby Woreda in dry seasons.

Water has multi-dimensional implication on the country as well as on the life of the people in the country. As a result many researches have been done concerning this issue especially in relation to the utilization of river water. The researcher also encounters researches that deal about water. To mention some Meseret, 2006, Yimer, 2006, Abera, 2007, Gezahegy, 2007, Hussien, 2010, Aschalew, 2011, Addisu, 2012, Tsega, 2014. However, little has been done on water as human right. Therefore this study will make an attempt to assess or evaluate the level

¹ International Covenant on Economic Social and Cultural Rights, year of ratification 11 June 1993, 2014.

of Human Right to Water (HRW), challenge and prospects of the HRW in Badusa Betela community in general and its impact on some selected human rights of the community. To examine the above problem in this study, the researcher have tried to assess the level of realization and challenges and prospects for the realization of HRW in the Badusa Betela community using factors that are applied in all circumstances to proof whether an individual or a community has adequate water supply for personal and domestic use these are; availability², quality³ and accessibility⁴.

1.3.Objective of the study

1.3.1. General Objective

The main objective of this study was to assess the level of realization of the HRW and its impact on Badusa Betela community.

1.3.2. Specific Objectives

- To assess the level of realization of HRW in this community.
- To assess the challenges and prospects of HRW realization in this community.
- To examine the impact of lack of water on some Selected human rights of this community.

1.4.Research Questions

- To what extent the HRW of the community is realized?
- What are the challenges and prospects to realize HRW in this community?
- What impacts have lack of water on some selected human rights?

1.5.Significance of the study

Water in general and fresh water in particular is essential for the survival of human being. Without having access to fresh water it is difficult that other rights are respected, protected and enjoyed; as it have a linkage with all human rights. This means if an individual or a community does not have access to fresh water, this will lead the violation of other rights. Investigating present problems related to HRW is very important to aware the government as

² one person should get between 50 and 100 liters of water per day

³ safe free from microorganisms, chemical substance and radiological hazards that constitute a treat to a person's health and acceptable colour, odour and taste

⁴ Physical accessibility (within 1,000 meters and the collection time should not exceed 30 minutes); Economic accessibility (affordable) should not exceed 3% of the household income); Nondiscrimination (water facilities should be accessible for all without any prohibition or discrimination)

well as Non Governmental Organizations (NGO) to take measure on the gaps that are investigated. It will also benefit to aware the community about their HRW and their responsibility towards the realization of this right. Hence Government organizations, NGOs, community and other stakeholders are believed to benefit from this study. In addition to this it serves as a basis for those who are interested in exploring the issue in more detail and depth.

1.6.Scope of the Study

The scope of the study is limited to assess the level of HRW, its challenge, prospects and its impact on some selected human rights in Bedusa Betela community. Accordingly, the research attempts to assess the level of realization, the measures taken and the gaps on the measures taken by government and other stakeholders for the realization of HRW and the impact of the HRW on some selected socio-economic rights such as the human right of women and children, the right to work and suitable working condition, the right to education and the right to health. It has assessed the impact of the violation of the HRW on civil rights such as freedom of religion.

Even if there are communities that face similar problem as a result of lack of water in the Dodota Woreda, this study is limited to assess the case of Bedusa Betela community. Therefore, the respondents of the study are household owners who are residents in this community, government and other stakeholders who have mandate and responsibility in the area.

1.7. Limitation of the study

The researcher has assessed the level of realization of HRW by using the parameter developed by the Committee on Socio, Economic and Cultural Rights (CSECR) this are availability, quality and accessibility of water. The policies, programs and laws in Ethiopia discuss some of the parameters and are silent on some of them. Moreover, the laws, polices and programs that include this parameter are not clearly defined them. As a result the researcher is limited to assess the level by considering the international and regional laws in some of the parameters and use the national standard on those that are clearly defined in the national laws.

1.8.Organization of the study

The study consists of five chapters. In the first chapter it introduces the background of the study, statement of the problem, objective of the study, research question, significance, scope

and limitation of the study. In chapter two, literatures related to the HRW, the interrelation between this right and some selected human rights are reviewed. In Chapter three, the research design and methodology that are employed in the research are dealt. The fourth chapter discusses the socio-economic and demographic characteristics; the level of HRW, the level of the duty barrier to achieve HRW and impacts of lack of water on some selected human rights in the community are discussed. Finally, the conclusion and recommendations of the study is dealt in chapter five.

CHAPTER TWO

Literature Review

2.1. Background

‘Water is a limited natural resource and a public good fundamental for life and health. The HRW is indispensable for leading a life in human dignity; it is a prerequisite for the realization of other human rights’ (CESCR General Comment No.15, 2003, para, 1).

The adoption of the ICESCR by the CESCR in 1966 forms a multilateral treaty which obligates its parties to work towards the granting of Economic, Social and Cultural Rights (ESCR) to individuals and groups (ICESCR, 1966). Particularly, the assessment on the level of ESCR and the non-explicit recognition of the HRW in article 11 of ICESCR (the right to adequate standard of living) forced the CESCR to define the HRW in General Comment.No.15 (Gordon et al., 2012). In strict legal sense General Comments may not be binding but, they carry considerable weight as tools for guidance and interpretation (Ando, 2010). This led to the official recognition of HRW in a number of international human right instruments and a number of states as part of their treaty obligation under the Covenant (Gordon, 2012).

The burden of fetching water falls on women and children (OHCHR Fact sheet No.35, 2010). As a result, their health, education and over all well-being are negatively affected (Ibid). This leads to the promulgation of Convention on the Elimination of All Forms of Discrimination against Women (CEADW)⁵ and Convention on the Rights of Child (CRC)⁶ that gives a legal umbrella for women and children to realize their rights in general and their HRW in 1979 and 1989 respectively. These are the two human right instrument that recognized the HRW expressly in article 24 (2) CRC and 14(2) CEADW at international level.

African Charter on Human and Peoples Rights (ACHPR)⁷ include the three generation rights in a single instrument (Ssenyonjo, 2011). As a result it does not explicitly include ESCR such as HRW which are fundamental for human survival and living life of dignity. Relatively ESCR in general and HRW are ‘protected in later African Human Rights treaties this are the

⁵ Convention on the Elimination of all forms of Discrimination against Women, year of ratification 8, July 1980.

⁶ Convention on the Rights of the Child, year of ratification 8, July 1980.

⁷ African Charter on Human and Peoples Rights, year of ratification 15 June 1998.

African Charter on the Rights and Welfare of Child⁸, African Charter on Human and People's Rights on the Rights of Women in Africa and Convention for the protection and Assistance of Internally Displaced Persons' (Ssenyonjo, 2011, p.359). Moreover, in SERAC case the African Commission on Human and Peoples Rights (Commission) defines the normative content of the right to health and the right to a clean environment as recognized under article 16 and 24 of ACHPR. Accordingly it develop the jurisprudence that this rights include the right to access clean air, water and soil and the government should refrain from directly threatening the health and environment of their citizens (Social and Economic Rights Action Center (SERAC) and another v Nigeria ; 2001).

In 2002 it is identified that there are 1.2 billion people without access to safe drinking water. This made world leaders to agree on key methods to tackle this problem; they agreed to call 2003 the international year of freshwater (UN, 2002). They reasserted in the Millennium Development Goal (MDG) "to halve, by the year 2015 the proportion of people who are unable to reach, or to afford, safe drinking water" (MDG; G1, T10). After this important step towards the HRW in 2003 there were strong discussions. This led to the recognition of the right to safe drinking water and sanitation⁹ by the United Nations General Assembly (UNGA) and the Human Right Council (HRC) in 2010 (HRC, 2010). The recognition of the right to safe drinking water has pushed the awareness of the global water and sanitation crisis to new heights, while also raising a multitude of challenging issues (Scanlon et al., 2004).

It is less contentious that the HRW is a right that will lead to the protection, respecting and fulfillment of other human rights. Therefore recognizing this right will lead to the protection of most of human rights recognized in the international human right instruments. As indicated in the definition of the HRW in General Comment. No.15 of Economic and Social Council (ESC); HRW is the right to access sufficient water provided that the term *access* includes economic accessibility or affordability, and the term *sufficient* refers to quality and quantity of water necessary to meet basic human needs (CESCR General Comment.No.15, 2003, para.12) (emphasis added).

Like most of ESCR, the CESCR applies the "ilities" approach to deal with HRW (Sharmila & Murthy, 2013). Ilities approach refers to availability, accessibility and affordability

⁸ African Charter on the Rights and Welfare of the Child, year of ratification, October 02, 2002.

⁹ UNGA adopts resolution recognizing access to clean water , sanitation as human right , by recorded vote of 122 in favor , non against , 41abtestions, 2010

dimensions within the available resources of the state (Ibid). This approach is used to measure and monitor the level of realization of HRW at national level (Scanlon et al., 2004).

HRW is one of ESCR that are not plainly defined as self-standing right in ICESCR. This in turns results in controversy over the idea and quite slow evolution (Tekele, 2011). As Takele Seboka ‘no other right in the ICESCR has had its status and normative basis as contested as the HRW’ (Takele, 2011, p.1). General Comment 15 by CESCR which deals with the HRW could be taken a milestone for the case in the international human right in general (Bielefeld, 2006). It is also ‘a vital inspirational source for the interpretation and clarification of HRW under the ACHPR’ (Tekele, 2011, p.360).

There are contending arguments regarding the right to water. On the one hand, the right to water is presumed as an auxiliary privilege dependent on other main rights which are expressly guaranteed as human right. Therefore, giving the status of human right for right to water is inventing a previously nonexistent right under ICESCR (Tekele, 2011). On the contrary, it is argued that the right to water is not a new born right but an independent right where its normative base is in ICESCR in conjunction with rules and principles of international water law and environmental law supported by state practice (Tekele, 2011). The first argument is supported by ideas such as water is fundamental and essential to preserve life as air on top of its scarcity. Thus, several writers (Craven 1995; Gleick 2000; Scanlon 2004) argue that failure to recognize this right as independent right is controversial and lead to violation of individual and group’s HRW.

In spite of arguments against the HRW, arguments in favor of HRW become an overriding idea as life is impossible without water.

2.2. Scope and Nature of the Human Right to Water

Water has multi-dimensional benefit as it is a key to health, food security, income generation, hydroelectric power and environmental protection (OHCHR Fact Sheet No.35, 2010). This implies that water is a broad concept than the HRW.

As declared in the Vienna Declaration and Program of Action HRW share the nature of universality, indivisibility, interdependency and interrelation with other human rights (VDPA, 1993). This is clearly indicated in General Comment 15; ‘the HRW is indispensable for

leading a life in human dignity. It is a prerequisite for the realization of other human rights' (CESCR General Comment.No.15, 2003, para.1).

The 2010 UNGA and HRC resolutions often refer to the right to 'safe drinking water'; but this does not mean that the scope of the HRW is limited to water for drinking only (Sharmila, 2013). According to General Comment 15 and the general international legal consensus the HRW is broader than the right to safe drinking water as it includes the right to access water for personal and domestic uses (Ibid). Further, General Comment 15 recognizes the necessity of water for the realization of so many rights in the ICESCR including right to adequate food, right to health, right to gain living by work and right to take part in cultural practice; but it prioritizes the allocation of water for personal and domestic uses (CESCR General Comment No. 15, 2003).

General Comment. No.15 shows that in terms of importance access to water for agriculture and environmental hygiene comes next to water for personal and domestic uses (CESCR General Comment .No. 15, 2003). Further, it recommends the state to give attention to ensure access to water for agriculture for women farmers and the disadvantaged (CESCR General Comment .No. 15, 2003). It also recommends the state to take measures to 'prevent threats to health from unsafe and toxic water conditions' by ensuring and protecting natural water resources from contamination (CESCR General Comment .No. 15, 2003, para 8).

The UN Convention on the Law of Non Navigational uses of Watercourses declares that water is a vital human need that needs protection at any time and circumstance (McCaffery, 2008). This convention also stipulate at the time conflict over the use of water courses 'special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation' (McCaffery, 2008, p.2). From the above discussion it is evident that the scope of the HRW is not limited to water for personal and domestic use but also water for agriculture, environmental hygiene and other rights under ICESCR.

However, the HRW has a limited scope in its current understanding. Pursuant to General Comment 15 'the HRW entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses' (CESCR General Comment .No. 15, 2003, p. para 2).

General Comment 15 and fact sheet 35 on the HRW list what is included in domestic and personal uses; water for drinking, personal hygiene, washing clothes, food preparation and personal and household hygiene (CESCR General Comment .No. 15, 2003; OHCHR Fact sheet No.35, 2010). Some scholars argue that the current understanding of the right is reflecting its origins from the right to health (Sharmila & Murthy, 2013). As a result the primary focus of the HRW is water for drinking, basic household needs and sanitation (Ibid).

Currently, there are 768 million people throughout the world who do not have access to water for domestic and personal use (Orobator, 2014). The water consumed for personal and domestic use represents an insignificant portion of the total water used; usually less than 5 percent which show that all the people who live in our world do not have access to water for their basic needs (UNDP, 2006). The importance of water for the right to food, health and other rights in the ICESCR is unquestionable but the issue should be which scope of the right should get priority.

The broad references mentioned in General Comment 15 and the importance of water for the realization of most of human rights become a challenge to limit the scope of the HRW. Moreover, the 2012 dialogue on the HRW and sanitation at the Rio+20 conferences suggests to adopt measures to reduce water pollution, increase water quality, and reduce water efficiency and losses (Rio+20, 2012). This demonstrates the debate over the scope of HRW is not necessarily over (Sharmila & Murthy, 2013).

2.3.Limitation of the Human Right to Water

Human rights obligations have a special character unlike other international law obligations, ‘states that ratify international human rights treaties are not primarily committing to respect human rights vis-à-vis other states, but vis-à-vis persons within their jurisdiction’ (Mergret, 2010, p.124). They are not also absolute (i.e the only absolute human right is the right to be free from torture). This means they can be limited ¹⁰ and derogated¹¹ unlike other international law obligations (Ibid).

The purpose of limitation is not granting states to abuse rights but to define the actual scope of the rights (Ibid). Limitations are justified if they are prescribed by law, follow a legitimate

¹⁰ Limitations refer to infringements or encroachments on guaranteed rights under narrowly contoured permissible circumstances.

¹¹ The states right of derogating from their obligations under some human rights treaties in a time of emergency when it might not be possible to secure respect for all human rights.

aim and necessary in a democratic society (Ibid). According to ICESCR States can justify limitations of the rights under the Covenant by invoking their social, religious and cultural backgrounds (Maastricht Guidelines, 1997).

Unlike International Covenant on Civil and Political Rights (ICCPR)¹² which requires strict compliance ICESCR expressly stipulates the inevitable importance of resource to realize most of ESCR rights (Tomuschat, 2008). According to article 2(1): “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the *maximum of its available resources*, with a view to achieving *progressively the full realization* of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures” (ICESCR: article2 (1), 1966) (emphasis added).

Member States cannot use the progressive realization theory in the above provision as a pretext for non-compliance of ESCR in general or the HRW in particular (Maastricht Guidelines, 1997). As the Maastricht guideline on ESCR “Violations of the covenant occur when a state fails to satisfy what the CESCER has referred to as “a minimum core obligation” to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights...” (Maastricht Guidelines, 1997, para 9).

Minimum core obligation of member states gives minimum entitlement for individuals. This means irrespective of resource, member states have an obligation to satisfy at least the very essential ESCR immediately and should maximize these rights progressively (Tomuschat, 2008). Therefore states cannot invoke scarcity and progressiveness of this right for minimum core obligation. But, it is clear that ESCR including the HRW have limitation for their maximum realization that is resource and the level of development of the country.

The level of development of the country is not the only justiciable reason to limit these rights. Article 4 ICESCR stipulates the rights under the covenant can be limited if they are determined by law (ICESCR, 1966). This limitation should be compatible with the nature of the rights having the purpose of promoting the general welfare in a democratic society (ICESCR, 1966). ACHPR have a general limitation cause in its article 27(2). Accordingly, rights under the Charter can be limited to protect the rights of others, collective security, morality and common interest (ACHPR, 1986). This means individuals should take care not

¹² International Covenant on Civil and Political Rights, year of ratification 11 June 1993.

to infringe the rights of others, collective security, morality and common interest when they practice their right under ICESCR and the Charter.

The African Commission on Human and People's Rights (Commission) also establish a strong jurisprudence on non-derogability ESCR during emergencies or special circumstances (Ssenyonjo, 2011). In *Union Interafricaine des Droits de l'Homme v Zaire* (Free Legal Assistance Group and Others v. Zaire, 1995) case the Commission use the right to life (Article 6 ICCPR) in conjunction with the right to an adequate standard of living (article 11 ICESCR) and came to a premise that the state should protect everyone against starvation (Ibid). Irrespective of invoking the progressiveness and scarcity of resources by the state the court held that the state violates the right to health since, it failed to provide safe drinking water, electricity and medicines (Ibid). Moreover, the Commission has also held that the rights protected under the ACHPR including ESCRs are non-derogable during emergency or special circumstance (*Malawi African Association and Others vs Mauritania*, 1995; *Centre on Housing Rights and Evictions vs The Sudan*, 2000).

Ethiopia is a state party to ICESCR and ACHPR therefore; there are international and regional human right commitments that emanate from the two ratified human right instrument on limitation of ESCR. This implied that to limit any of human rights including HRW there should be cross reference of limitation clause of the international and regional human right instrument on that specific human right (Adem, 2011). Not only this but also the national constitution also include a limitation clause on ESCR. Specifically article 90 of the FDRE constitution stipulated the progressive nature of HRW ; “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” (FDRE Cons, 1994) (emphasis added).

To conclude member states have an obligation at list to satisfy their minimum core obligation towards the individual right to minimum entitlement. In the case of HRW every member state have a minimum obligation to serve their peoples to access water within 1km radius and 25 liters of safe water per person per day (Howard &Bartram, 2003). Unless they satisfy this minimum core obligation the sates does not have the right to invoke the limitation clause of the HRW in any human right litigation.

2.4. Normative Content of the Human Right to Water

The Office of High Commissioner for Human Rights (OHCHR) defined the HRW;

“the right to equal and non-discriminatory access to a sufficient amount of safe drinking water for personal and domestic uses-drinking, personal sanitation, washing of cloths, food preparation and personal and household hygiene-to sustain life and health. States should prioritize these personal and domestic uses over other uses. They should also take steps to ensure that this sufficient amount is good quality, affordable for all and can be collected within a reasonable distance from a person’s home” (OHCHR 2007, p. 26).

The three normative content of the HRW are (i.e. availability, quality and accessibility) (CESCR General Comment .No. 15, 2003) are derived from the very essence of the right and definition of the HRW. The three normative contents of the HRW used as indicator to measure the level of realization.

2.4.1. Availability

The availability parameter of HRW is directly related to the quantity of water each individual is entitled to domestic and personal hygiene. This parameter of the HRW require the sufficient and continuous supplying of water for drinking, personal sanitation, washing of cloths, food preparation and household hygiene for each individual (CESCR General Comment .No. 15, 2003; Kayser et al., 2013). According to General Comment No. 15 paragraph 12 the water supply must be continuous this means the HRW is respected if and only if individuals have accessed available water regularly and sufficiently for their domestic and personal hygiene. The availability parameter also include continuity which measure the time“(daily, weekly and seasonally)” that the water is available for persons (WHO, 2011, p.83).

CESCR in General Comment No. 15 articulates the normative contents of the HRW, but it does not specify actual quantities of water required for basic consumption per person. In its paragraph two it tries to indicate that the quantity of water supplied should be adequate and safe “to prevent death from dehydration, to reduce the risk of water related disease and to provide cooking, personal and domestic requirements” (CESCR General Comment .No. 15, 2003, para 2). It cleanly indicates that the quantity of water supplied should be sufficient for

all domestic and personal hygiene. Further, it refers to World Health Organization (WHO) guidelines for the amount of water required by individual per day.

The HRW does not refer to unlimited amount of water. WHO guidelines gives guidance for countries to specify the amount of water each individual should have access for their domestic and personal hygiene. Each state party has discretion to determine the minimum reasonable amount of water needed for domestic and personal hygiene (OHCHR, 2007; WHO, 2011). But the discretion is limited as WHO member states have an obligation to observe the WHO standard when they develop national minimum standard (CESCR General Comment .No. 15, 2003).

According to WHO guidelines water accessed by an individual per day is divided in to four level. These are no access for 5 liters, basic access for 20 liters, intermediate access 50 liters and optimal access 100 – 200 liters (Gleick, 1998). To meet all health concerns and reduce health problem that are caused as a result of scarcity of water a person should get between 50-100 liters of water per day (Bartram &Howard, 2003; Kayser et al., 2013). The lowest standard WHO put is 20 liters per person per day to maintain life, but this amount is insufficient to meet basic domestic and personal hygiene that lead to raising of health concerns (Haller & Lawrence, 2004). The standard quantity of water per person per day by WHO are indicative this might change depending on a particular context (Sharmila & Murthy, 2013). For instance it is assumed that there may not be sufficient water available for domestic and personal uses during emergencies (i.e natural disasters, conflict, and post conflict...), at this time a basic minimum prerequisite per person per day become 7.5 to 15 liters (IHC, 2012). Additionally some groups of individual may require additional water due to health, climate and work conditions (CESCR General Comment No. 15, 2003).

The guiding principles give discretion for state to determine the quantity of water accessed by an individual. The discretion is limited as states have an obligation to refer the minimum standard of WHO guidelines. As a result the domestic incorporation of the HRW with specific parameters becomes the current primary challenges in a public policy (UNDP, 2006). Ethiopia is one of the members of WHO that face this challenge (UNDP, 2006).

The UNDP (2008) confirm 50 liters of water as minimum absolute daily water available for an individual. These are: 5 liters for drinking, 20 for sanitation and hygiene, 15 for bathing and 10 for preparing food. Despite of this millions of people have access to 10 liters of water

per person per day (ADF, 2005). The situation of Ethiopia is under the above scenario. At the end of GTP it is expected that 15 liters and 20 liters of safe water on average at 1.5Km and 0.5km radius will be supplied per person per day in rural and urban area respectively (MoWEPRCD, 2013). Currently, there is no legal and policy document or research that shows the daily water access by individual per day and GTP goal can be a point of reference to infer water accessibility per day. Therefore, this inference confirms the amount of water accessed by an individual is below minimum standard in most parts of Ethiopia.

Table 1.1. Level of accessibility and availability of water collected Service by WHO

Service level	Accessibility	Availability
No access	More than 1 km / more than 30 min round-trip	Very low:5 liters per capita per day
Basic access	Within 1 km / within 30 min round-trip	Approximately 20 liters per capita per day on average
Intermediate access	Water provided on-plot through at least one tap (yard level)	Approximately 50 liters per capita per day on average
Optimal access	Supply of water through multiple taps within the house	100–200 liters per capita per day on average

Adopted from table 1.5 of (WHO, 2011).

2.4.2. Quality

The other important normative content of the HRW is the quality of water. Availability of the required quantity will not have any importance without having the required quality. Hence, poor quality is hazardous for human being. According to WHO safe water is defined as a water that does not cause any significant health risks during life span of the scheme and when it is consumed (WHO, 2006).

Managing the quality of water not only has a benefit for public health, but it also promotes socio-economic development and individual well being. Therefore, water should be maintained in its highest level of quality (WHO, 2013). According to this the water required for domestic and personal hygiene must be safe, means it should be free from micro-organisms, chemical substance and radiological hazards that constitute a risk to person's health (CESCR General Comment .No. 15, 2003; OHCHR, 2007). Moreover, the color, odour and taste of water used for personal and domestic uses should be acceptable (CESCR General Comment .No. 15, 2003). Takele (2010) & Doria (2011) argue that aim of providing these in General Comment15 are to defend the dignity and perception of the users towards these characteristics of water.

Accessing safe water is a challenging reality particularly, for those people living in developing country. To reduce the risk of using unimproved source of water WHO recommend practicing Household Water Treatment and Safe Storage (HWTS)¹³ (WHO, 2011). WHO describe HWTS as a temporary solution measure and does not replace the obligation of service provider to supply access to safe drinking water (WHO, 2011).

States have the right to set standard for quality of water accessed for domestic and personal uses. WHO guidelines for water quality are used as a standard by many developed and developing countries to set standards and regulations at national level (WHO, 2013). Ethiopia is one of the member states of WHO (WHO, 2005) that developed water quality standard using the WHO guidelines (FDRE MoH, 2011). Using this guideline, currently it is estimated that 48.9% of rural population and 74.6% of urban population and 52% of people at national level have access to safe or qualified water for domestic and household uses (Water Aid, 2013).

2.4.3. Accessibility

Accessibility of water is one of the normative content of the HRW. If the accessibility part is missing water availability and quality alone could not fulfil the HRW. According to this normative aspect individuals as well as groups have entitled to access water without any discrimination within state party's jurisdiction (Takele, 2011). Unlike the availability and quality factor, accessibility has four interrelated aspects i.e. physical accessibility, economic accessibility, non-discrimination and information accessibility (CESCR General Comment No. 15, 2003).

2.4.3.1. Physical Accessibility

Physical accessibility means that sufficient, safe, acceptable, adequate water facilities and services must be accessible within the surrounding area of the household, educational institutions and workplace (CESCR General Comment .No. 15, 2003). It requires that water services accessed by the individual or the community should fulfil the quality, culturally appropriateness, and privacy, lifecycle and gender sensitiveness requirements of the parameter (Ibid). Moreover, "physical security should not be threatened during access to

¹³ This is only recommends for people who have no access to improved drinking water sources at all, access to improved sources outside of their home or premises , with unreliable piped supplies who have to store water to bridge the gaps between deliveries and for those in emergency situations.

water facilities and services” (Ibid , para. 12). The primary aim of this requirement is to protect women and girl child against violence (OHCHR, 2007). It has also the aim of protecting the privacy, dignity and integrity of a human being (Ibid).

CESCR recommends that water should be accessible within the immediate vicinity of household, educational institution and workplace but it does not indicate the reasonable distance. The WHO guidelines like other normative content of the HRW used as guidance to define immediate vicinity or reasonable distance of water service and facilities (CESCR General Comment No. 15, 2003). If the water source is accessible within 1,000m of home and the collection time is not exceeding 30 minutes it qualified the requirement of WHO for physical accessibility (Bartram &Howard, 2003; OHCHR, 2007).

2.4.3.2.Economic Accessibility

Economic accessibility identify whether the water service delivered by the concerned bodies is affordable or not. It means water and water facilities and services must be affordable for all (CESCR General Comment No. 15, 2003). The affordability of water does not imply that water should be accessible freely but the cost of water should not be an obstacle to access water by the rural and poor urban areas (Ibid; Takele, 2011). Moreover, the charge for water for basic need should be appropriate (Agenda 21, 1992) and it should include the costs of production and utilization of water resources (CMCE, 2011). The affordability is not only measured by the direct costs but also the indirect costs which are incurred to access water (CESCR General Comment No. 15, 2003). The notion of cost and payment in enjoying the HRW does not highlights that nobody should be dispossessed of this right because of incapacity to pay (OHCHR, 2007). The affordability parameter is compatible with the principle of cost recovery which is recognized by most of international declarations. However, this principle has a limit. When it is applied to HRW it emphasizes that the cost should not be a barrier to access safe water (Salman and Lankford, 2004). “States parties are also obligated to fulfil the right when individuals or groups are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal” (CESCR General Comment No. 15, 2003, para 27). Therefore, if there are people who could not afford to cover the cost of accessing water the state has an obligation to fulfil this right to the minimum core of HRW (Takele, 2011).

The CESCR emphasizes that the costs incurred to obtain water should not intimidate the realization of other rights under the Covenant including the right to food, housing and education (CESCR General Comment No. 15, 2003). Hence, to prevent intimidation an international standard stipulated that the costs of water should not exceed three percent of the household income (UNDP, 2006).

In Ethiopia it is difficult to find data's on the costs incurred to access water as there is no assessment on this issue at country level (Tsega, 2014). The national water policy specifies that the government of Ethiopia have an obligation to provide subsidies to communities who cannot afford to pay to access water for basic needs (MWR, 2001).

Table. 2. Water Tariff of Addis Ababa Water and Sewerage Authority (AAWSA, 2012).

No.	Quantity	Cost per Month
1	0-7m ³	1.75 ETB per m ³
3	8-20.99 m ³	3.80 ETB per m ³
3	21-40.99m ³	4.75 ETB per m ³
4	41-100.99 m ³	5.95 ETB per m ³
5	101-300.99 m ³	7.45 ETB per m ³
6	301-500.99 m ³	9.3 ETB per m ³
7	above 501 m ³	11.6 ETB per m ³

The above tariff in table 2 is used by most of the urban settings of the country. As can be seen from table 2 the cost is affordable for those who have a tap at household level. But the water supplies even at urban settings of Ethiopia are not continuous. As a result the people are forced to additional cost to access water from the private vendors. This problem is worst in the rural part of Ethiopia as people do not have tap at household level and use public taps (OWNP, 2013). This public taps are not continuous and sufficient as a result the people are forced to pay higher cost to access water from place which are far from their house (Ibid)

2.4.3.3.Non-discrimination

Most of international human right instruments devote their article 2 for non-discrimination clause. Likewise ICESCR in it article 2 stipulate non-discrimination clause. The CESCR defines non-discrimination:“as any distinction, exclusion or restriction or preference other preferential treatment that is directly or indirectly based on the prohibited ground of discrimination and which has the intention or the effect of nullifying or impairing the recognition, enjoyment or exercise of the right, on equal footings, of the Covenant right” (CESCR General Comment 20, 2009). Article 2 of the ICESCR list some of the ground that

discrimination is prohibited this include race, color, sex language, religion, political or other opinion, national or social origin, property, birth or other status” (ICESCR, 1966).

According to non-discrimination principle, water facilities and services should be accessible to all without discrimination (CESCR General Comment No. 15, 2003). Non-discrimination principle protects vulnerable and marginalized sections of the population from obstacles that prohibited them from accessing water (Ibid). This part of the community include the poor, women, children, persons with disabilities, refugees and internally displaced persons and indigenous peoples (OHCHR Fact sheet No.35, 2010). States have an obligation to take positive measure against HRW of people discriminated by *de facto* or *de jure* by adapting water policies to those part of the community (Ibid). Moreover, this principle has an enormous advantage for rural communities, poorer sections of the society, communal and traditional groups (Takele, 2011).

Ethiopia has an international as well as national human right commitment as the FDRE constitution stipulates non-discrimination clause in its preamble and article 25 ((FDRE Cons, 1994). This principle is applied in all circumstances and service delivered by state and concerned body including the HRW. Furthermore, it gives protection and imposes obligation on government to take measures of protection for venerable groups of the society in its article 35(3) rights of women and article 36 on children’s rights. In addition, policies on water give especial attention to venerable groups in the society. For instance the water policy of the country put gender issue as one of it cross cutting issue to encourage the full involvement of women in the planning, implementation, decision-making in the water sector by empowering them through trainings (MWR, 2001). GTP also put the distribution of water facilities and services equitably for all parts of the community without discrimination (MoFED, 2010).

Despite non-discrimination clause, there is a big disparity on access to water in urban and rural parts of Ethiopia. According to recent report by the government, the current rural water coverage is 66.5% whereas the urban water coverage is 81.3 (MWE, 2013). On the contrary, the current rural and urban access to water estimated to be 48.9% and 74.6% according Joint Monitoring Program (JMP) (Water Aid, 2013). Even if there is disparity between the two reports on the status of the accessibility of water they inform the same thing that is the existence of a great disparity and discrimination against the HRW of people who live in urban and rural areas of Ethiopia.

There is also disparity on the water collection as woman are the one who undertake most of household activity the burden of water collection is also fall on them. According to the 2011 Demographic and Health Survey of Ethiopia water collection is carried out 61.3% by adult women, 15.4% by girls below the age of 15, 15% by boys and 5.9% by adult men (Calverton, 2012).

In spite of the international human right commitment of the country, non-discrimination clause of the supreme law of the land, policies and programs at country level the above figures illustrate that the burden of water collection for the household consumption falls under women (Calverton, 2012). Therefore there should be a great move towards the accessibility of water for all in order to reduce the burden of adult women and children that will have a great impact on their involvement in all aspects of life including education (Calverton, 2012).

2.4.3.4.Information Accessibility

Information accessibility is the right to participate in water issues (CESCR General Comment No. 15, 2003). It also includes seeking, receiving and imparting information concerning water issues (Ibid). According to this parameter individuals and groups have the right to participate in decision making process of any issue, policy, programme or strategy related to water (OHCHR, 2007). This parameter have an overlapping implication with non-discrimination principle of water accessibility as it gives individuals and groups to access information about water, water services and the environment from public authorities and third parties equally and fully without any discrimination (Ibid).

The Ethiopian Water Management Policy makes the participation of all stakeholders, user communities, and particularly women's participation in the relevant aspects of water resources management as one of its fundamental principle (MWR, 2001). By doing so the information accessibility is recognized by the water sector. Additionally the policy in its cross cutting issue part stipulates the importance of the involvement of women in the planning, implementing, and decision making process of water issues (Ibid).

Even if the laws, policies and strategies of Ethiopia recognize information accessibility practically this parameter is weakly performed when we compare it with other parameters. Currently 25% of the water schemes are non-functional (Water Aid, 2013). This can be one thing that proves low participation of the communities in the water sector (Ibid). When we compare the participation of communities before and after the constriction of water source in

there locality the participation is better after they have got water points in their locality. This is occurred because the construction of water source is followed by establishment of water committees (Ibid). These committees are empowered by training and become representative of the community concerning water issues in there locality (Ibid).

2.5.Nature of Obligation Towards the Human Right to Water

States have the obligation to protect, promote and fulfil HRW. The ICESCR provide two ways of realizing the rights under the instrument. These are immediate and progressive ways. As one of ESCR, state parties have a primary obligation to realize the HRW of all individuals under their jurisdiction (Blix, 2009). Some of the obligation has to be enforced immediately and others progressively (CESCR General Comment No. 15, 2003).

2.5.1. Nature of State Obligation

Member states of ICESCR have two kinds of obligation towards the rights under the Covenant according to article 2 of ICESCR. Therefore, as one of ESCR the HRW has immediate and progressive obligation that bind member states to achieve minimum core requirement of HRW immediately and maximize it progressively.

Two of the key principles of article 2 of ICESCR; “undertakes to take steps... by all appropriate means, including particularly the adoption of legislative measure and without discrimination” are important for the immediate realization of the HRW (OHCHR, 2005, p. 9). Pursuant to article 2(1) of ICESCR states are required to take steps by all appropriate means, including the adoption of legislative measures. The adoption of legislation is obligatory and immediate (Limburg principles, 1986) to enforce the HRW. However, laws alone are not enough for the enjoyment and protection of the HRW (OHCHR, 2005). The states have an obligation to take administrative, judicial, policy, economic, social and educational and all the required measures to ensure the HRW (Ibid).

The other key principles stipulated under article 2 of ICESCR are “with a view to achieving progressively the full realization of the rights, to the maximum of it available resources and through international assistance and cooperation” which imply the progressive nature of the ESCR in general and HRW in particular (emphasis added). Most of the time the progressive nature is interpreted wrongly as ESCR are realized when a country reaches a certain level of economic development (OHCHR, 2005). This is neither the intention nor the interpretation of

the provision. But every member state has an obligation to “move as quickly as possible towards the realization of ESCR” by using the available resources effectively and equitably (CESCR General Comment No.3, 1990).

The progressive realization is not for the core minimum obligation but for the maximum achievement of the HRW (CESCR General Comment No. 15, 2003). It is recognizable that developing countries face a challenge to fulfil the core obligation of the HRW by using their available resources (Blix, 2009; Takele, 2011). To reduce this problem the covenant as well as the General Comment gives a great attention for the importance of international assistance and co-operation to achieve HRW. Moreover, the Covenant prohibits retrogressive measures in relation to HRW. If the states take retrogressive measures they should take the burden of proving that the measure is taken after careful consideration of all alternative and maximum available resources of the state party's (CESCR General Comment .No. 15, 2003)).

2.5.2. Levels of State Duties

CESCR in General Comment on the HRW describes level of state duties as specific legal obligations of states towards the HRW. Like other ESCR, the states parties have three levels of human right obligation towards the HRW. These are obligation to respect, protect and fulfil (CESCR General Comment .No. 15, 2003). These obligations of the state towards human right are adopted by UN human right treaty bodies as “a tripartite typology” (Megret, 2010, p. 130). Some human rights advocates and intellectuals prefer to use the word “to avoid depriving”, “to protect from deprivation” and “to aid the deprived” (Chirwa, 2010, p. 405).

2.5.3. Duty to Respect

The duty to respect is the first and foremost obligation of the state towards human rights. This obligation requires “states parties to refrain from interfering directly or indirectly with the enjoyment of the HRW” (CESCR General Comment .No. 15, 2003, para 21). According to this duty states have a negative obligation which means they should abstain from taking measures which will result in the violation of any of human rights (Megret, 2010). These measures should not be taken by any organs of the state (i.e. parliament or executive) or state agents (i.e. Civil servants, police or the army) (Ibid). In the case of HRW states have an obligation to respect such right by not arbitrarily cutting off, polluting and reallocating pre existing water services and facilities (CESCR General Comment No. 15, 2003; Sharmila, 2013). Moreover at the time of armed conflict, emergency and natural disasters this right

could not derogated and the states are obligated to be refraining from attacking objects essential for survival of civilians including drinking water services (Ibid).

Ethiopia as state parties of ICESCR and the domestic integration of ICESCR in article 9(4) cum 13(2) takes legislative measure that makes the organs of the state to refrain from actions that lead to the arbitrarily taking of HRW of individuals or communities (FDRE Cons, 1994).

2.5.4. Duty to Protect

CESCR stated that states have the duty to ensure that activities of third parties are in conformity with the HRW (CESCR General Comment .No. 15, 2003). The human rights duty of the state to protect aimed towards protecting, controlling and regulating the individuals and groups from violation of their human rights by non-state actors (Megret, 2010). This duty obligates state in two ways by taking preventive and reactive measures. The preventive measure require states to take preventive measures before the violation whereas, the reactive measure required states to take remedial measures after the violation occurred (Chirwa, 2010). According to this obligation the responsibility of the state springs not from the objective violation of the right but the actions or inactions before or after the violation is occurred (Ibid). Even states are not involved in the violation directly or indirectly this obligation requires states to prove their action against the violation with evidence (Ibid). Unless the states prove their action towards the violation they are held responsible as it is presumed that they failed to prevent the violations (Ibid).

In the case of HRW, CESCR impose an obligation on states to prevent violation of these rights by non-state actors (CESCR General Comment .No. 15, 2003). For instance States have an obligation to protect individuals' rights to access water by third parties, such as by guaranteeing that an industry does not pollute a local waterway (Sharmila, 2013). In addition to the international commitment the FDRE constitution in its article 44(1) cum 92 stipulates the right of persons to live in clean and health environment which include water and the obligations of the state to ensure and protect this right (FDRE Cons, 1994).

2.5.5. Duty to Fulfil

The obligation to fulfill has been understood in the context of the HRW as entailing both an obligation on states to facilitate individual's ability to access water and means to ensure their

affordability and an obligation to provide them with equity whenever they are unable to enjoy the HRW for reasons beyond their control (CESCR General Comment .No. 15, 2003).

The duty to fulfil is a positive duty of states parties which required states to engage proactively in activities that lead to a greater enjoyment of rights (Megret, 2010). This duty requires the state to adopt appropriate laws or integrating the very rights protected under the international instrument in to the domestic laws (Ibid). It also requires judicial, administrative, educational and other appropriate measures that lead to the full exercise of human rights (Chirwa, 2010).

“ESCR is the primary paradigm of rights which demand positive obligation to adopt specific measures and where “not doing anything” is not an option” (Ibid, p.132). As one of ESCR HRW demand positive obligation from the state (Chirwa, 2010). The state parties have obligation to fulfil these rights, by using maximum available resources to progressively ensure that everyone especially people who live in severe poverty and in emergency situations has access to the services (Sharmila, 2013)

Pursuant to article 2 of ICESCR member states are legally bound to take steps to the full realization of ESCR to achieve it progressively using their maximum available resources (ICESCR, 1966). Additionally, the Constitution of Ethiopia recognizes this obligation in its article 90. Therefore, as one of the states party’s of ICESCR and the recognition of this obligation in FDRE constitution Ethiopia has national as well as international commitment to fulfil its HRW obligation.

2.5.6. The Nature of Obligation on Non-State Actors and International communities

The obligation of realizing the Human rights in general and the HRW in particular fall not only on state but also on non-state actors and the international community. The non-state actors and the international community includes individual citizens, local private sector, local Non Governmental Organizations (NGOs), International NGOs, UNs Specialized agencies and programmes, International Financial Institutions ,World Trade Organization (WTO), National and Multinational Private Service providers and research community (WHO, 2003). Each of the mentioned non-state actors and the international institutions have obligation towards the realization of HRW at national level (CESCR General Comment No. 15, 2003). When these organs carry out their obligation they should give priority for most vulnerable or

marginalized sections of the community during provision of aid, distribution and management of water and water facilities (Ibid).

The UN Specialized agencies and programmes and WTO have an obligation to collaborate effectively with state parties in building the capacity of the state using their own expertise for implementation of the HRW at national level (Ibid). The international monitoring institution should give a due regard for HRW in their policies, credit agreements, structural adjustment programmes and other development projects (Ibid).

The duty of individual citizen towards HRW include paying affordable fee to access water, securing and maintaining water connection through collective action, informing connection break for the concerned bodies, keeping water in safe conditions, disposing waste and waste water in a safe and sustainable way (WHO, 2003).

The duty of local private sector (i.e. who participate in the construction of water facilities and services) towards HRW are ensuring the communities awareness, providing opportunity for participation, acting in ethical manner towards the community and engaging in responsible, sustainable methods of water extraction and ensuring equity and reliability of the service (Ibid). Another group of local private sector that may affect the environment adversely may include local industry (manufacture, mining, logging, farming, etc.). In order to protect HRW the state should enact law that makes the private sector accountable to local communities and individuals. Moreover, the laws enacted should prohibit ground and surface water contamination and stipulate the participation of the local communities on any issue that affect their HRW (Ibid).

As one part of non-state actors the local NGOs that engage in HRW and sanitation activities have a duty to realize the HRW. The duties of this non-state actor include awareness creation about HRW, promoting and monitoring the work of local government for realizing HRW; contribute to ensure the implementation of the government water policy and supporting the local community (i.e. management of community water supplies including training the community how to maintain the water facilities and services) (Ibid).

International NGOs are also one part of non-state actors that have a duty to realize HRW. These duties include promoting the development of international standards, benchmarks and indicators on HRW; building the capacity of partner local civil society to argue for their HRW; promoting the accountability of local government partners in respect to HRW;

protecting customary water access by ensuring that projects do not arbitrarily distort them; awareness creation on HRW; documenting and highlighting HRW violations and advocating for those HRW had violated in international and regional fora (Ibid). Moreover international NGOs have a duty to engage in advocating human rights –based approaches to resolve trans boundary water resource conflicts; assisting states to advance the HRW and monitoring international, multilateral, and bilateral institutions on their policies and practices on HRW(Ibid).

National and multinational private service providers have also duty to realize HRW. This duty includes advancing the situation of services to raise the number of beneficiaries; creating sustainable policies on water management for its own activities; issuing progressive pricing to increase coverage; guaranteeing equity in reliability of services; give priority to supplies for the most marginalized communities; ensuring a responsible disconnection policy and providing clear and correct information to all users (Ibid).

The last but not the least non-state actor who have obligation towards HRW is research community. This non-state actor plays an important and often little see role. The role played by this actors include identifying and developing new research areas, varying from new technologies to assisting in escalating service provision, through developing understanding of equity issues in water distribution/pricing/cost recovery, to implementing a rights based approach in research itself (Ibid). Researches also should guarantee that people's rights are respected and achieved; be attentive to people's needs; be honest with the people involved and not create false expectations of outcomes; be answerable and monitor sources of resources to ensure that money does not come from human rights burdening activities (Ibid).

2.6.The Legal and Policy Framework of Human Right to Water in Ethiopia

2.6.1. Human Right to Water Under the Constitution

To analysis the status of the HRW in Ethiopia the first and foremost instrument is the Constitution as it is supreme law of the land. One of the commitments of State party's on ICESCR is taking legislative measures that pave the way to implement the rights guaranteed under the Covenant. Accordingly, the Constitution of Ethiopian in its article 9(4) makes the international human rights instruments part and parcel of the law of the land (FDRE Cons, 1994).

The FDRE constitution also incorporates ESCR and obligates the state to allocate ever increasing resources to protect, promote and fulfil these rights. In the FDRE constitution the ESCR are not only stipulated under bill of rights part but also under National Policy, Principles and Objectivities (NPPO). These rights are stipulated in FDRE constitution in different way from international human right instruments as government obligation rather than individual or collective rights (Adem, 2011). This creates misunderstanding on justiciability of ESCR in Ethiopia as the constitution did not indicate that NPPO are not justiciable (Ibid).

Adem (2011) argue that even if the ESCR are put as NPPO in FDRE constitution the House of Federation or other institutions may directly apply the principles as binding undertaking or use them to guide the interpretation of the fundamental rights and freedoms. Moreover the current trends of international human rights system on ESCR narrow the non-justiciability of ESCRs in Ethiopia as a party to ICESCR (Ravlich, 2009). Further, article 13 of the FDRE Constitution which stipulates that the human rights provisions of the Constitution should be interpreted in conformity with international human right instrument ratified by Ethiopia make ESCR justiciable. The HRW is one of ESCR which is explicitly as well as implicitly recognized in FDRE Constitution.

The FDRE constitution in its Article 91 explicitly provides: “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” (emphasis added) (FDRE Cons, 1994).

The Constitution of Ethiopia did not provide this right explicitly under chapter three which stipulate fundamental rights and freedoms. HRW is stipulated under chapter ten on NPPO part. Unlike Directive Principles of State Policy (DPSP)¹⁴ under other Constitutions, NPPO are justiciable and enforceable at court of law as the Constitution does not explicitly declare that they are not enforceable at court (Adem, 2011).

¹⁴ DPSP are provisions contained in a constitution which are not enforceable by any court , but the principles are fundamental in the governance of the country and the state are obliged to apply these principles in making laws, What price for the priceless?: “ Implementing the Justifiability of the Right to Water” , “Harvard law Review, vol. 120, No.4(2007), p. 1080”
,<http://www.jstor.org/stable/pdfplus/40041998.pdf?acceptTC=true&jpdconfirm=true> , accessed on April 10,2014

The FDRE Constitution not only recognizes the HRW explicitly but also implicitly in article 41 (3) & (4), 43 and 44 in bill of rights part as ESCR.

In it article 41 (3) & (4) it provides: “Every Ethiopian national has the right to equal access to *publicly funded social services* and the State has the obligation to allocate ever increasing resources to provide to the public health, education and *other social services*” (emphasis added). What are publicly funded social services? Under article 41(3) there is no list while under article 41(4) the list is not exhaustive. Water is one of ESCR which is basic for survival as well as for the protection of other rights. Therefore, the HRW is implicitly recognized in this article as it is one of publicly funded social services.

The HRW is also implicitly recognized in article 43 of the FDRE constitution which stipulates: “The Peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular have the right to *improved living standards...*” (FDRE Cons,1994). According to CESCR the HRW “clearly falls within the category of guarantees essential for securing an *adequate standard of living*, particularly since it is one of the most *fundamental conditions for survival*” (emphasis added) (CESCR General Comment No. 15, 2003, para 3). Ethiopia is state party to the ICESCR therefore; the approach established by CESCR is applicable in Ethiopia. This implies that the recognition of improved living standard in the Constitution indicate the implicit recognition of HRW. Moreover this article broaden the applicability of the HRW from individual to group as it use the word “the Peoples of Ethiopia as a whole, and each Nation, Nationality and People...” in its sub article 1. This implies the FDRE constitution recognizes the HRW as an individual as well as collective right.

The HRW is also implicitly recognized in article 44(1) of the FDRE constitution which stipulates: “all persons have the right to *a clean and healthy environment*” (FDRE Cons, 1994) (emphasis added). Environment is defined as a sum total of water, air and land interrelationships among themselves and living organism (Anon., 2014). According to General Comment 15 by CESCR water accessed by the person should have the WHO required quality standard and pollution and diminution of water resources affecting human health amounts to violation of the obligation to respect (CESCR General Comment .No. 15, 2003). This implies that persons have the right to access clean water as one component of environment. If pollution and diminution occurred the person or the organization that is responsible for this will be liable.

2.6.2. The Human Right to Water Under Supplementary Legislations, Policies and Programs

Ethiopia as state party to ICESCR and the ACHPR one of the obligations is to enact national policies and programs for the smooth implementation of HRW (CESCR General Comment No. 15, 2003; Tunis Reporting Guidelines, 2010). In response to this commitment as well as to implement the HRW supplementary legislation, policies and program that are enacted in Ethiopia include Ethiopian Water Management Policy (1999), Ethiopian Water Sector Strategy (2001), Water Sector Development program (2002), GTP (2010), National Human Right Action Plan (2013) and the One WASH National Program (OWNP) (2013). Each of the policies and programs aimed to improve the accessibility of water in Ethiopia. Especially the recent OWASH National program that united four ministries (i.e Ministry of Water and Energy, Health, Education and Finance and Economic Development) expressly recognized HRW (OWNP, 2013).

The Purpose of Ethiopian Water Management Proclamation is to ensure that the people obtain the highest social and economic benefits from the water resources (Procl No. 197, 2000). The highest social and economic benefits are dream without the HRW which is a basic component for survival. This proclamation also includes the three normative aspects of the HRW slightly (Ibid). It describe quality in its article 2(13) as the character of water as defined by its physical, chemical, microbiological and radiological parameters (Ibid). It guaranteed the availability of water for domestic use over and above any other uses in article 7(1) (Ibid). It also stipulates that certain persons may be exempts from fees to access water in article 21(1) (Ibid).

The Ethiopian Water Resources Management Regulation is also important supplementary legislation for HRW. This regulation incorporates the issue of water quality, information accessibility, connection and disconnection. Under article 16(1) it required the conformation of quality of water by a laboratory to ascertain whether it is healthy for domestic use before it is supplied (Regulation No.115, 2005). Under article 17(1) it provides the water resources should be protected from contamination (Ibid). Article 34 of the regulation stipulates that not paying the required charge for water will lead to disconnection but the disconnection should be justifiable and there should be a 60 day grace period after announcing the beneficiary about reason of disconnection (Ibid).

The Water Resources Development Fund Establishment and its Administration Proclamation is also relevant for the realization HRW. The purpose of the proclamation is “to enable the beneficiary a reliable and sustainable water supply and allocate the money collected from various sources to implement water and sanitation projects for the benefit of everyone fairly and equitably” (Procl. No.268, 2002). The achievement of this purpose will contribute for the HRW.

The Environment Pollution Control which define environment as: “The totality of all materials whether in their natural state or modified or changed by humans, their external spaces and the interactions which affect the quality or quantity and the welfare of human or other living beings, including but not restricted to, land, atmosphere, weather and climate, *water*, living things, sound, odor, taste, social factor, and aesthetics” is also important to implement HRW (Procl.No.300, 2002). The definition notifies that laws under this proclamation are also applicable for water resources as one component of environment. This proclamation in its article 4(2) stipulated that persons should prevent the environment from pollution and not employ in actions that polluted the environment which include water (Ibid). If individuals violate the laws under the proclamation they will be liable and the Environment Protection Agency is authorized to take legal and administrative measures against them (Ibid). That means if an individual or groups pollute or contaminate water the agency have a mandate to take a legal and administrative measure against them.

Article 1232 of the Civil Code stipulates that persons can use water that crosses their land for personal consumption in their home. These persons have also an obligation to share the water with their neighbors for domestic purpose and the neighbors have reciprocal obligation to pay compensation (Civil Code of the Empire of Ethiopia, 1960). Article 1235 entitles persons to resist the construction of anything that will contaminate water. This contributes for water quality. Moreover, article 1237(1) stipulates persons who use water for domestic use have priority over those who use it for other purposes like irrigation (Ibid). Water can be used for irrigation by the upstream people if the downstream users have accessed enough water for their domestic use (Ibid). The above provisions indicate the slight incorporation availability, affordability and quality element of HRW in the civil code of Ethiopia.

In Ethiopia violation of HRW is not only raise a civil liability but also a criminal liability. According to article 270(i) of criminal code interruption of water facilities during civil war is a crime against civilian and lead to punishment from five years imprisonment to death

(Criminal Code of FDRE, 2004). This provision will have a great significant for the protection of availability part of HRW. The Code also stipulates punishment for those who contaminates water and reduces its quality under article 517(1). Accordingly, anybody who intentionally contaminates water by any means of substances dangerous for the health of human being or animal will be punished with fine or simple imprisonment for not less than one month or with rigorous imprisonment not exceeding seven years in severe cases (Ibid). By doing so, the Code gives protection to the people with regard to the quality.

2.7.Factors Affecting the Human Right to Water

ESCR has a direct relationship with resources. As one of ESCR the HRW has a linkage with resources specifically water resource. There are so many factors that have adverse effect on water resources these are the increasing of world population, rising per capita consumption of water (i.e. Irrigation...), (Mis) Management of water, global climate Change, infrastructure development (dams, dikes, levees, diversions etc) and geographical location of the area (HDR, 2006). Not only this but also the nature of water or the content of water will have a direct impact on the quality of water that limits implementation of the HRW. The water resources in East African Rift Valley zone which expands from Eritrea to Malawi that also touch Ethiopia have high fluoride content (Ibid). As a result of this a conservative estimate of 10 million people living in this area are affected by fluorosis that is caused by consumption of water that contain high fluoride (Ibid).

Not only resources but also social patterns may affect the HRW. The social patterns which have positive or negative effect on HRW are Perception factors, Socio economic factors, gender inequality, age cohorts¹⁵, spatial proximity¹⁶ and social proximity¹⁷ (Phansalkar, 2007; Bain et al. , 2012). Several recent analyses have examined how these patterns of inequality affect HRW. For instance one recent study undertaken in five countries (i.e. Ethiopia, Jordan, Nicaragua, Nigeria, and Tajikistan) prove that people who have lower and middle socio economic status are more exposed to unsafe water as they use unimproved source (OHCHR Fact Sheet No.35, 2003; Bain et al., 2012). This study also reveals that water source in the countries where the research was undertaken including Ethiopia the HRW is at lower level except Jordan which complied with WHO guidelines and has minimal contamination (Bain et

¹⁵ Generational inequality

¹⁶ Disparities between urban and rural areas

¹⁷ Different population groups in the same regions such as rich versus poor

al., 2012). These patterns are creating inequality between individuals and communities when they practice their HRW.

2.8. Interrelation Between the Human Right to Water and Some Selected Human Rights

Water is indispensable for life and numerous fundamental human rights cannot be fully realized without water. CESCR General Comment provides that: “the HRW clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival” (CESCR General Comment .No. 15, 2003, para.1).

The enjoyment of HRW is a prerequisite to enjoy other human rights (Ibid). This right is also necessary to meet core obligation of Covenant rights that should get priority (Ibid). These rights include the right to food, right to work, the right to education, right of children and human right of Women.

The right to health includes personal and environmental hygiene as its component (Sharmila, 2013). HRW is not only for personal and environmental hygiene but also it has significant public health benefits. Personal and environmental hygiene is not imaginable without water (Ibid). Article 12 of ICESCR declares that states parties should take steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions (CESCR General Comment No.14, 2000; Daci, 2012). The right to health related to HRW can be protected if states parties ensure the protection of natural water resources from contamination (Daci, 2012). In developing countries 3 million people die every year from diseases caused by unsafe water (Scanlon et.al, 2004). WHO estimates that 80% of illnesses, more than one third of deaths are caused by drinking water contamination and 60% of all infant mortality is related to infections caused by water (Ibid).

The right to life is guaranteed under article 6 of ICCPR; “every human being has the right to life. No one shall be arbitrarily deprived of his life” (ICCPR, 1966). In spite of this in developing countries water born disease such as diarrhea causes more deaths on children under five and 90% of child mortality is caused by contaminated water and inadequate sanitation (UNDP, 2006). The chemicals under contaminated water are more harmful on children than adults because their immune mechanizes are not matured to respond for

infections caused by the chemicals (OHCHR Fact sheet No.35, 2010). The HRC believes that it would be advantageous to take all potential actions by member countries including serving water for their people to reduce infant mortality and increase life expectancy (Daci, 2012). Without water no life can be sustained this is explicitly enshrined in human rights understanding since the promulgation of UDHR in 1948 (Scanlon et.al, 2004).

Moreover, the effect of lack of HRW on women's health is severe. Most of the time women are the one who are responsible to collect water. In spite of this they are excluded from participation on issues of water (OHCHR Fact sheet No.35, 2010). Water collection takes more time, cause water contact diseases such as bilharzia and the heavy burden affect the women health (Ibid).

Almost 70% of all available freshwater is used for agriculture and more than one third of global food production is based on irrigation this implies that water and food are inseparable to sustain life (Scanlon et.al, 2004). General Comment 12 on the right to food provides "States parties should ensure that there is adequate access to water for subsistence farming..." (CESCR General Comment No. 15, 2003, para.7). The obligation of the state to fulfil towards the right to food requires the proactive engagement in activities that are intended to strengthen people's access to and utilization of resources and means to ensure food security including production (CESCR General Comment No.12, 1999). The insufficient regulation of entities that have impact on the right to food amounts to violations of the right by the state (Ibid). Furthermore, Convention Law of Non- Navigational Uses of Water courses declares that in the events of conflict on water courses "special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and *water required for production of food* in order to prevent starvation"(emphasis added) (C.McCaffrey, 2008, p. 19).

One of the rights that have a linkage with the HRW is the right to work. ICESCR and ACHPR in there article 6(1) and 15 recognize the right work and obligate states parties to take appropriate steps to safeguard this right. The scope of this right is not only for wage paid work but also independent work such as agriculture (CESCR General Comment No.18, 2005). The state parties have also obligation to have national legislation to regulate agricultural worker so, they enjoy the same level of protection as other workers (Ibid). If the state parties fail to take all necessary steps to ensure the realization of the right to work it amounts to violations of obligation to fulfil (Ibid). The main income source of the majority of the world population in developing countries is agriculture. For instance 85% of Ethiopian

populations sustain their life through agriculture (Taye, 2008). Agriculture needs fresh water for production (Scanlon et al., 2004). The right to work of an agrarian depends on the supply of water (Ibid). If the supply of fresh water is inadequate the majority of population in developing countries right to work will be violated and their income is greatly affected that also led to the violation of the right to food (Ibid).

The HRW have also a relationship with the right to education which is guaranteed under article 13 of ICESCR and article 17 of ACHPR. ‘As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities’ (CESCR General Comment No.13,1999, para.1). Despite this protection lack of appropriate supply of water forces children’s who share significant burden of fetching water to walk long distances to reach water points which will lead to missing school (Scanlon et al., 2004). Students who miss school continuously miss so many lessons and finally they dropout (Daci, 2012). These become a great challenge for the applicability of right to education in rural parts of developing countries (Daci, 2012).

In rural part of developing countries, girl child prohibited their right to education as they are sent to fetch water that takes half of their day (UNDP, 2006). Moreover, the schools do not have water facilities that cause inconvenience to attend especially for girls during menstruation (OHCHR Fact sheet No.35, 2010). For instance primary schools that have water facilities are only 34.4% in Ethiopia (FDRE MoE, 2012). As a result there is large gender gap in school attendance in many developing countries (UNDP, 2006).

The HRW is also related to civil rights such as freedom of religion. Freedom of religion is stipulated in article 18 ICCPR and 27 of FDRE Constitution as: “everyone shall have the right to freedom of thought, conscience and *religion*. This right includes the manifestation of once religion by *worship, observance, practice* and teaching (emphasis added) (ICCPR, 1966). “The concept of worship extends to *ritual and ceremonial acts* giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship...” (CCPR General Comment No.22, 1993, para 4).

In some of the world religions (i.e. Christianity, Islam, Hinduism, Buddhism, Judaism, Shinto and Zoroastrianism) believed that water has a foundation of life with a purifying power (Anon., 2013). As a result, it has a vital place in observance and practice of their religion

(Ibid). Therefore, in this religion the availability of water have a crucial place to practice and observe the religions. That means lack of water lead to the violation of their freedom to practice rules in their religion or lead to the use of non-preferable alterative rules in their religion.

Chapter Three

Research Design and Methodology

3.1. Research Design

Research design is about planning how to link theoretical concepts and questions with the empirical world to meet the objective of the study. To create link between the theory and the real phenomena the researcher has utilized case study, as this method create an opportunity to analyze many specific details intensively that are overlooked by other methods (Creswell, 2009). Therefore, the outcome of study will be applicable to other cases of the same type.

3.2. Instruments for Conducting the study

To collect primary data the researcher used household survey, key informant interview and focus group discussions. Observation is also employed to check and proof the information obtained through formal interview. Moreover, the information obtained through key informant interview, focus group discussion and observation increased the validity and reliability of the information gathered through household survey by triangulation. As secondary source the researcher has reviewed books, research, polices, journal, articles, strategies and data from government and other stakeholder.

A. Key Informant Interview

In this study, in depth interviews with key informants has been used as a source of data collection. This method enhanced the rapport between researcher and informant and that the corresponding understanding and confidence between the two that lead to in- depth and accurate information (Kumar, 2005). This has been conducted with community elders, Kebele water committee, Kebele manager, Water, Mineral and Energy Bureau of Dodota Wordea, Development Agents, health extension workers , teachers, Catholic Relief Service Ethiopia (CRS Eth) and Ethiopian Catholic Secretariat Social, Development Coordinating office of Meki (ECC-SDCOM) Water ,Sanitation and Hygiene Office(WASCHO) coordinator as a key informants. This helps the researcher to get valid information from the interviewed. This people are believed to have better knowledge about the issue and represent the view and opinions of the majority of the community. The researcher uses a semi-structured face to face interview with key informants.

B. Household Survey

The researcher has also employed quantitative method to quantify extent of variation in a phenomenon, situation, issues, etc. This is believed to be helpful to the researcher to identify variables that have a relationship with the researchable issue (Kumar, 2005). In order to quantify the extent of the accessibility, quality and quantity of water in the community, the information gathered at household level has been used as a major source of the research.

C. Focus Group Discussion

To explore the perceptions, experience and understanding of a group of people who have some experiences in common with regard to a situation or events the researcher has utilized focus group discussion (Kumar, 2005). Accordingly, the researcher undertakes four focus group discussions with water committees, children, women, and adult men. Each FDG has composed of 6 participants. This has strengthened and validated the information gathered through household survey and key informant interview.

D. Observation

Personal observation was made on the basis of social interaction and informal dialogue with the community. This was facilitated by the researcher and ECC-SDCOM. This method was used to discover how the problem is affecting the community.

E. Case Study

This has been employed depending on the household and individual willingness to provide the information. This study included three case studies on how the HRW affect the human right of women, the right to education, the right of children, the right to work and food. The case studies were selected based on the relevancy and degree of the problem.

F. Document Review

The researcher has reviewed documents such as the water policy of the country, the water policy of Oromia regional state and any documents that have a relationship with the issue. Additionally, records of water, Mineral and Energy Bureau of the woreda and other stake holder. These tools fill the gaps that are encountered on the other method the research has been employed.

3.2.1. Sampling Methods and procedures

The homogeneity of the population in the area in terms of ethnicity, religion, means of livelihood, area of living and other socio-economic statues have a great impact on the sampling method the researcher should use.

To collect the data through household survey the researcher used simple random sampling technique. Since the people in the area are homogenous the researcher employed simple random sampling technique. Thumb rule is used to identify the participants in the household survey (Yount, 2006) which is described in the table below.

Table 3. Rule of thumb (Yount, 2006)

No	Size of population /family size	Sampling percent
1.	0- 100	100%
2.	101 – 1,000	10%
3.	1,001 – 5,000	5%
4.	5,001 – 10,000	3%
5.	10,000 ⁺	1%

In the research background the researcher describe that the total population in the study area are 4,819 and have 1, 004 families/ household. According to thumb rule the researcher would take 5% of the total families or households in the study area that is $1,004 * 5/100 = 50.2$.

Whereas, the sampling method the researcher has deployed to undertake key informant interview and focus group discussion was purposive sampling as this method use the researcher special knowledge or expertise to select subjects who represent the population under the study and to determine who have special knowledge about the issue (Yitayew & Wendemagegn,2013).

3.2.2. Data Analysis

This study employed both quantitative and qualitative approaches. The researcher used qualitative method to investigate the challenge and prospects of HRW and impact of violation of HRW on other human rights in Badusa Betela community. In addition, this approach gives the researcher the chance to investigate the problem in the natural setting by going to the site where this research has been conducted (Cresswell, 2009). It also gives a place for active participation for the people who suffer as the result of the problem that has been investigated in the research (Ibid).

The researcher also employed quantitative method to quantify extent of variation in a phenomenon, situation, issues, etc. This method helps the researcher to identify the variables that have a relationship with the researchable issue (Kumar, 2005). Therefore this study has used household survey as a major tool and health status data, school enrollment and dropout data in order to check the validity and reliability of information gathered in the household survey by triangulation.

The major aim of this study is to discover and analyze the level of HRW, challenges, prospects and the impact of the HRW and its implication on other human rights. Therefore, the instruments from household survey are designed to address issues like the level of accessibility, quality and availability of water, challenge and prospects, the impact of accessibility, quality and availability of HRW on some selected human rights in this community.

Structured questionnaires are used to undertake the household survey to get uniform information from the respondents. The questions for the survey managed by interview as the research were the study had been conducted was rural area where the participants are illiterate (Ibid). The questionnaires have been organized into five parts: socio-economic and demography information of the area, income sources of the household, the normative contents of HRW, challenges and prospects for the realization of HRW, the impact of HRW on right to food, work, education, health, the human right of women, children, freedom of religion and the perception of the community towards the HRW.

Chapter Four

The Human Right to Water in Badusa Betela Community

4.1. Introduction

This chapter discusses the HRW in Badusa Betela Community. It also analyzes the study area and the socio-economic and demographic characteristics of the respondents as an introduction. Furthermore, it will examine the level of realization of the normative contents of HRW in terms of availability, quality and accessibility and level of nature of obligation towards the HRW by state through the duty to respect protect and fulfil. It also deals the contribution of non-state actors for the realization of HRW.

Moreover, the chapter will deal with, the challenges and prospects for the realization of HRW and the impact of the non-realization of the HRW on the right to food, work, education, children, human rights of women and freedom of religion in the community.

4.2. Description of the Study population

4.2.1. Study Area

Badusa Betela Kebele is one of the 14 rural Kebele's in the Dodota Woreda. This Woreda is located in the Arsi Zone of Oromia Regional State. The total population of this Kebele is 4,819 having a gender composition of 2,619 male and 2,200 female (FTC, 2013).

The location of the Kebele is under the Ethiopian rift valley. It has an agro climatic zone of tropical (Kolla)¹⁸. In spite of the climatic condition of the area the majority of the people's livelihood is mainly based on crop production. There is 1,352 hectares of land for crop production which is used to produce sorghum, wheat, barley, maize and teff. The community also rear cattle, sheep and goat.

¹⁸ Kolla(tropical zone) is one of the climate zones of Ethiopia that is below 1830 metres in elevation and has an average annual temperature of about 27 degree Celsius with annual rainfall about 510 millimeters, Stuart Munro-Hay(2002), Ethiopia, The Unknown Land a Cultural and Historical Guide, p.45.

Table.4.1. Demographic distribution of the Population in the Kebele

No.	Age Range	Male	Female	Total	Percent from the total population
1	0 - 4	375	400	775	17.61%
2	5 - 18	590	560	1150	26.14%
3	19 - 60	1445	888	2333	53.02%
4	60 ⁺	52	90	142	3.23%
5	Total	2500	1900	4400	100.00%

Source: Survey by Farmers Training Center (FTC) of the Bedusa Betela Kebele, 2013.

From the above table it is visible that the percentage of working population is the highest compared to other age groups in the community.

Most of the populations in this community are originally from this area and speak Afan oromo (i.e. the working language of Oromia state) and Amharic (i.e. the working language of the FDRE).

4.2.2. Socio-economic and Demographic Characteristics of the Respondents

The total households that were participated in the survey were 50. In spite of the method applied which is simple random sampling, the total respondent's gender distribution become proportional; that is 57.8 % male and 42.2% female. As it is the household survey 90.7% of the respondents were married and the remaining was widowed.

The majority of youths who were above 18 years of age were married; that means they are heads of a family. Accordingly, the distribution of age of the respondent is 81.5% from 19 to 60 and the remaining respondents were above the age of 60. The majority of member of the community practice monogamy this can be proved by the 95.6 percentage of the respondent having one wife or husband.

Concerning the family size of the respondents, 37.8% have 7, 26.7% have 5, 24.4% have 6 and insignificant percent of the respondents have 4 and 8. This implies the average family size in a household level is 6. In terms of number of children 39.5% of the respondents have 3, 30.2% have 4 and insignificant percent of the respondents have 6, 7 and 8 children at house hold level. This shows that on averages there are 3 children at household level.

The other variable under the study was the literacy rate of the family heads. The survey reveals that 53.5% of the respondents were illiterate, 32.6% of the respondents completed elementary school and very few of them completed grade 10.

The majorities of the Ethiopian people who live in rural part of Ethiopia depend on agriculture. As part of the rural communities of Ethiopia communities in this Kebele are agrarian. The annual income of the household is mainly from crop and livestock production. The survey revealed that 95.5 percent of the community does not have any income from non-agricultural activities. Majority of the respondents (58.1%) obtain an annual income of 6,000.00 to 12,000.00 ETB from crop production. Significant percent of the respondents (46.6%) generates an annual income of 3,000.00 to 12,000.00 ETB from livestock production. The total annual income source of the household in the community from both crop and livestock production is minimum of 3,000.00 ETB and maximum of 21,000.00 ETB. The average income of the respondent is 23,255.56 ETB annually.

4.3.Level of Realization of the Human Right to Water

4.3.1. Level of the Normative Content of the HRW

The HRW is realized if the water available for an individual is accessible and have the required quality. State parties to the ICESCR should use the parameter of availability, quality and accessibility as indicators of the level of HRW in their respective country. These parameters are complementary to realize HRW which means they cannot be used to realize HRW as a single parameter.

4.3.1.1.Availability

Availability of water is determined through the quantity of water an individual has access for domestic and personal hygiene (CESCR General Commentee No. 15, 2003). According to the data gathered through FGD and KII the water available in dry seasons at household level is from 60 to 100 litres of water per day. This is strengthened by the household survey. Accordingly, on average each of the respondent household collect 70.26 litres of water per day in dry seasons.

The water availability in the Kebele is better in rainy seasons as the community use rain water and community ponds for domestic and personal consumption. According to the FDG and KII the water collection on average is 100 litres at household level. The survey at household level almost reveals similar information. Accordingly, the 100 litres of water is collected by 76.7% of the respondents and very insignificant percent of the respondents collect 40, 60, and more than 100 litres of water per day in rainy seasons. This implies 90.6 litres of water on average is collected at household level during rainy seasons. One of the respondents in the household

survey stated that “in rainy seasons some household depend on rain water. As a result, the lines of plastic container in the water points are very few in number. This is conceived as an opportunity for some households to collect water in higher quantity.”

Availability parameter of the HRW also includes the sufficient and continuous supplying of water for drinking, personal sanitation, washing of cloths, food preparation and domestic hygiene for each individual (CESCR General Comment .No. 15, 2003). In rainy season the people in the kebele at household level have access to water daily as they collect water from the nearby community ponds and use rain water. The household survey also reveals 93% of the respondents have access to water facilities and services daily in rainy seasons. Whereas, in dry seasons they have access to water facilities and services three days in a week. During dry seasons 90% of the respondent's have access to water facilities and services three times in a week at household level. Insignificant numbers of respondents have access to water services and facilities once a week. Concerning sufficiency, the community members describe the water available at household or individual level as insufficient for personal and domestic uses. Data collected through questionnaire confirms 97.7% of respondents in the household survey opined the same.

The household survey reveals that the family size in the kebele is between four and eight members; the average family size is 6 at household level. The water available for individual per day can be obtained by dividing the water collected by a household to the average family size at household level. Therefore, the water available for an individual is 15.1 litres per day in rainy season and 12.8 litres per day in dry seasons while the average is 14 litres per day.

This implies that the community does not have sufficient and continuous water supply for household and personal consumption. According to WHO guidelines basic access to water by individual is 20 litres per day (WHO, Guidelines for Drinking Water Quality, 2011). A person should also have access to 50 litres of water per day to meet all health concerns and reduce health problem as a result of water shortage (Ibid). The WHO standards are indicative that might be changed depending on particular context (Sharmila, 2013). For instance, during emergency time (i.e. natural disasters, conflict and post conflict...) a basic minimum prerequisite is 7.5 to 15 liters of water per person per day (IHC, 2012). The water accessed by an individual per day in this Kebele is below basic access and fall almost under the minimum prerequisite during emergency time. Thus, individuals in this community are lacking basic quantity of water.

4.3.1.2. Quality

Water used for domestic and personal hygiene must be safe. That means it should be free from micro-organism, chemical substance and radiological hazards, that constitute a risk to person's health (CESCR General Commentee .No. 15, 2003). The WHO defines safe water as water that does not cause any significant health risks during life span of the scheme and when it is consumed (WHO, Guidelines for Drinking Water Quality, 2006).

The people in the study area access water from public taps in dry season. The water collected from the public taps is not sufficient for their domestic and personal use. As a result, they are forced to use water from community ponds until it all dries and the Awash River¹⁹. In rainy season, the majority of the households mainly depend on rain water and water from community ponds.

The color, odor and taste of water are used to determine the quality of water for personal and domestic use (CESCR General Commentee .No. 15, 2003). These factors are used to defend the dignity and perception of users. The community in this Kebele uses both unimproved²⁰ and improved ²¹water sources in dry and rainy seasons; but the majority depends on unimproved water source in rainy seasons. In dry seasons, 95% of the households collect water from improved sources. Almost all respondents (98%) obtain water from unimproved sources in rainy seasons. As a result the participants of FGD describe the color, odor and taste of the water they collect in dry seasons as normal and not normal (i.e. it has unpleasant odor and brown color) in rainy seasons. In the survey 95.6% of the respondents said that the water they collect during rainy seasons is not normal and 93% of them said that it is normal in dry seasons. Thus, water collection sites in dry season are clean but they are unclean in rainy seasons.

WHO recommends practicing HWTS system to reduce the risk of using unimproved sources of water as a temporary solution (WHO, 2011). The Health Extension Worker, the

¹⁹ Awash River is one of the twelve major river basins in Ethiopia which is under rift valley drainage system that covers 28% of the country.

²⁰ Improved water sources are water sources that, by nature of their construction or through active intervention, are protected from outside contamination, particularly faecal matters ;this include public taps or standpipes, tube wells or boreholes, protected dug wells, protected springs and rainwater collection www.who.int/water_sanitation_health/monitoring/water.pdf /accessed/12April,2013.

²¹Unimproved water sources are water sources that are not protected from outside contamination; this include unprotected dug well, unprotected spring, cart with small tank/dam, lake, pond, stream, canal, irrigation channels, Ibid.

Development Agents, ECC-SDCOM, which is the only active NGO on WASHCO, issues in the Kebele try to aware the community about HWTS system. They advise the community to boil or use water treatments before they consume the water from unimproved sources. Despite these measures the majority households in the community use water from unimproved source without any HWTS. This is confirmed by the 60.5% of the respondents who do not use any HWTS. The community has a perception that water treatment is good but it is not as such mandatory. They also argue that it needs wood and charcoal to boil the water, which we do not have access. Some of them have perceived water does not cause any harm whether it is polluted or not. This implies that the community is not concerned about the water quality as they lack sufficient quantity of accessible water. One of the respondents describes the value of water for survival and its importance whether it has the required quality by using the Amharic proverb below:

“Ye enat ena yewea metefo yeleweme” means “There is no bad water as there is no bad mother”.

To conclude the researcher observed that the community have good perception about using water that have the required quality but the problem is difficulty in accessing it and the cost of HWTS. Ethiopia as member of WHO developed water quality standard using the WHO guidelines but still there are 48.9% of rural people who suffer from lack of water that have the required quality (Water Aid, 2013). The Community in Bedusa Betela Kebele are one of those communities who do not have access to the required water quality.

4.3.1.3.Accessibility

Accessibility has four interrelated aspects: these are physical accessibility, economic accessibility, non- discrimination and information accessibility. This section will present the level of the four interrelated aspects of accessibility in Badusa Betela Kebele.

4.3.1.3.1. Physical accessibility

According to this aspect of the HRW, sufficient, safe, acceptable, adequate water facilities and services must be accessible within the immediate area of the household, educational institutions and workplace (CESCR General Comment No. 15, 2003). This aspect required the accessibility of the water sources within 1,000 meters of home and the time of collection should not exceed 30 minutes (Bartram, 2003; OHCHR, 2007). Despite this requirement, the

community in this Kebele travel three hours to reach the water collection site in dry seasons. The household survey also reveals that 95.3% of the respondents arrive to water collection site after they travel for three hours. After they reached the water collection sites they should stay at water points to wait their turn as the lines of the plastic continuators are numerous. This means the community in this Kebele spend more than six hours to collect water. Unlike the dry seasons, during rainy seasons they travel 30 minutes or less as they collect water from the community ponds or use rain water.

The disconnection of the protected water site from the community in dry seasons is a usual phenomenon and the community ponds dry out as a result of high evaporation. At this time the community in this Kebele is forced to collect water from the Awash River which is two hours from their locality. The other source of water for this community is the derange water or the waste water that comes from the Wonji Sugar factory through gravity distribution. To reach this water collection site it takes them two hours. The water collected from this site has relatively high content of chemicals such as chloride, hardness, calcium, magnesium, sulphate and TDS (Doke, 2011). These chemicals severely affect seed germination so it is easy to conclude that this water will have severe effects on a person who consumes the water for personal and household purposes (Doke, 2011).

Moreover, physical accessibility aspect of the HRW requires “the protection of person’s physical security during access to water facilities and services” (CESCR General Commentee No. 15, 2003, para. 12). The primary aim of this requirement is to protect women and girls against violence (OHCHR, 2007). Despite this as the water collection burden in this community is on women and children they are suffering from violence during their way to fetch water. This is confirmed by the household survey. According to 86.7% of the respondents there is physical abuse and the women fear they may encounter abuse on the way to fetch water. A small percent of the respondents stated that there is rape and abduction.

Case One

The Implication of Non-accessibility of Water on the Human Rights of Women



Figure 1: A girl on the way to home from water collection site.

My name is Asiya, I am 17 years old and a grade nine student. I am responsible to fetch water. I start my journey to the water point from home at 6 am early in the morning and reaches there at 9 am. That is after three hours journey on foot. When I arrive at the water point it was disconnected. When it was 1 pm I am going back home with my donkey and the four plastic containers (Jeri cans) without any drop of water. I am lucky at least my families have a donkey and I am not supposed to carry the containers in my back. But the availability of the donkey does not have effect on the time I spend to arrive at the water site and back to home. As a result; this is greatly affecting my education. If there is no water in the house I should miss class to fetch water.

4.3.1.3.2. Economic accessibility

According to this parameter of the HRW, water and water facilities and services must be affordable for all (CESCR General Commentee No. 15, 2003). Additionally, the cost of water for basic need should be appropriate (UN Agenda 21, 1992) and include costs of production and utilization (CMCE, 2001). Affordability is not only measured by direct costs but also indirect costs which are incurred to access water (CESCR General Commentee No. 15, 2003).

Members of the community express that the primary difficulty to access water service and facilities is not the cost they incurred but the distance and insufficiency of water source. They argue that they prefer to pay more than facing a difficulty during water collection. According to the household survey, the annual income of the respondents is between 3,000.00 and 21,000.00 ETB. Thus, the average annual income of the respondents is 23,255.56 ETB. To

prevent intimidation the international standard to access water should not exceed three % of the total income of the household (UNDP, 2006). Even by taking the average annual income of the community the cost incurred by one household to access water should not exceed 697.67 ETB annually or not exceed 1.91ETB daily. But the household survey reveals that 55.8 % of the respondents incurred 10.00 ETB to access water per day from improved water source. The remaining percent of the respondent incurred less than 1 ETB. The difference on the cost incurred to access water by the community is happened because the households who have donkey does not consider the opportunity cost they incurred and the household who do not have donkey include the transportation cost. If the opportunity cost of households who have a donkey is calculated almost all the community incur more than three % of their income to access water. That means the costs they incur to access water is intimidating other rights in the community.

Moreover, affordability requires States parties to realize the HRW of individuals or groups who are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal (CESCR General Commentee No. 15, 2003). It is shown that 55.8% of the respondents in the household survey incur more than three % of their income to access water. However, the respondents in the household survey and the participants in the FGD and KII confirm that there is no measure taken by the concerned bodies to improve this situation for those parts of the community. Even the remaining respondents express their primary difficulty is not cost by comparing the severity of other difficulty and cost they incurred. The affordability of the HRW is stipulated to benefit the rural and poor urban areas by putting restriction on the costs incurred to access water (CESCR General Commentee No. 15, 2003; Takele, 2011) this community does not get any benefit as a rural and poor community.

4.3.1.3.3. Non - discrimination

According to this principle of HRW, water facilities and services should be accessible to all without any distinction (CESCR General Commentee No. 15, 2003). In Ethiopia there is a big disparity between rural and urban areas on access to water services and facilities (MWIE, 2013 ; Water Aid, 2013). The government report indicates that, the current rural and urban water coverage is 66.5% and 74.6 % (MWE, 2013). On the contrary, the current rural and urban access to water estimated to be 48.9% and 74.6% respectively according JMP (Water Aid, 2013). But the two datas inform similare information that is the existance of disparity and discrmination against the HRW of people who live in urban and rural areas of Ethiopia.

The people in this Kebele are one of the communities in Ethiopia who face discrimination as they are rural part of Ethiopia.

The primary purpose of this principle is to protect the poor, marginalized, women, and children, persons with disabilities, refugees, indigenous peoples and internally displaced persons (CESCR General Comment No. 15, 2003). In spite of this, poor, women and children in this community are facing so many challenges as a result of violation of their HRW.

There is also disparity on water collection in the Kebele. According to the household survey, 58.1% of the respondents said that water is collected by Adult women and 27.9% said that the collection is done by girl children. Whereas, the respondents confirm small portion of water collection is carried out by adult male and boys.

4.3.1.3.4. Information Accessibility

This aspect of the accessibility parameter of HRW is related to the right to participate in issues concerning water services and facilities (CESCR General Comment No. 15, 2003). According to the household survey 93% of the respondents believe that there is discussion concerning water issue with the concerned bodies especially with government official at Kebele level. But the 83.7% of the respondents said that the discussions and meetings about water issue sometimes are not enough to solve the problem in the community. The members of the community also commented that the water and energy office at wordea as well as Zonal level are not responsive to the community's water issues. They said that they were not informed on the measures taken to solve the problem unless the water committee take the initiative and ask them.

In the Kebele there is a water committee²² that have 7 members. This committee was established in 2004 to administer water facilities since their construction. The committee is still functional even if the water points stopped giving service seven years ago. The members of community consider that water committee provides an opportunity for the participation of the community in issue concerning water. According to the household survey, 97.7% respondents said that information is accessible through the water committee.

²² Administer rural portable water service organization its stream and system is one or different and its members elected by beneficiaries, Megeleta Oromia, proclamation No.152/2009.

Information accessibility also includes the right to seek, receive and impart information about the issue related to water by individuals and groups (CESCR General Comment No. 15, 2003). The household survey also reveals that 72.1% of the respondents said that there is a way to seek, receive and impart information.

This parameter of the HRW is insignificantly applied when it is compared to other parameters in Ethiopia (Water Aid, 2013). However, the result of the research reveals the opposite. This is mainly related to the existence of water committee in the Kebele. The water committee of the Kebele are empowered by trainings and became the representatives of the community concerning water issues (Water Aid, 2013). This can be the main reason for the majority of respondents to say that there is a structure that gives a way to seek, receive and impart information. On the other hand it can be argued that the non-functionality of the water facilities or the disconnection can be related to the non-existence of this structure and the passive participation of the community on the issue before the construction of the water facilities and services in the Kebele. Therefore, information accessibility is important for sustainability of water facilities and services which have a direct impact for the realization of the HRW.

4.3.2. Level of Obligation Towards the HRW

Non-state actors should cooperate with state parties for the implementation and promotion of HRW (CESCR General Comment No. 15, 2003). The immediate and progressive obligations can be achieved if the states and other actors collaborate.

4.3.2.1. Level of State obligation

There are three levels of states obligation to realize the HRW of individuals or groups. These are the duty to respect, protect and fulfil (CESCR General Comment No.15, 2003). Although HRW requires the immediate realization of the minimum core obligation (OHCHR, 2005). The realization of the HRW in this community is below the minimum core requirements. But this does not mean that there is no action taken by the state as well as the non-state actors. Moreover, CESCR obligate every member state to move as quickly as possible towards the realization of ESCR by using the available resources effectively and equitably (CESCR General Comment No. 3, 1990). This part will try to discuss the contribution of each and every duty bearer for the realization of the HRW in this community.

4.3.2.1.1. Duty to Respect

Duty to respect requires states to refrain from interfering directly or indirectly with the enjoyment of the HRW of an individual or groups (CESCR General Comment No. 3, 1990). According to this duty state organs should also abstain from taking measures which will result in the violation of the HRW (Megret, 2010).

The duty to respect requires the state to refrain from arbitrarily cutting off, polluting and reallocating pre-existing water services and facilities (CESCR General Comment No. 15, 2003; Sharmila, 2013). One of the sources of water for this community is Awash River. There are so many parties and organs that are responsible for polluting this River. According to Lemma²³, Fatuma²⁴ and Omer²⁵ one of the parties that are responsible for the pollution is, the government owned, Wonji Sugar factory which discharges the waste materials from the industry in to the river. Therefore, chemicals from the discharged waste materials make the quality of water the worst. As the community uses the river as one sources of water, it faces so many problems which are caused by consuming contaminated water. This is a clear indication that the state fail to respect the HRW of the community directly.

4.3.2.1.2. Duty to Protect

The duty to protect requires states to ensure that activities of third parties are in conformity with the HRW (CESCR General Comment No. 15, 2003). This duty of the state is aimed towards protecting, controlling and regulating individuals and groups from violation of their human rights by non-state actors (Megret, 2010).

The ICESCR gives priority to water for household and personal consumption (CESCR General Comment No. 15, 2003). Not only ICESCR but also the Civil Code of Ethiopia in its article 1237(1) stipulates that persons who use water for domestic use have priority over those who use it for other purposes like irrigation (Civil Code of the Empire of Ethiopia, 1960). Despite this in this Kebele the water points are disconnected by Itosa Kebele community where the water source originates.

The protection given by both ICESCR and Civil Code of Ethiopia is violated by individual and groups living around the water source. According to the duty to protect the state should

²³ Ato Lemma Deme, WASHCO head, ECC-SDCOM Coordinating office of Wonji.

²⁴ W/r Fatuma Ahamed, Health extension worker in Badusa Betela Kebele.

²⁵ Ato Omer Ali, Badusa Betela Kebele Manager.

take preventive and reactive measure to protect the HRW of individual and groups (Chirwa, 2010). The state through its organ fails to take preventive measures which led to the disconnection of the water for livestock and irrigation purpose. If the state fails to take preventive measure the next step is reactive measures.

The mandate to take reactive measures is on Water and Energy Bureau of the Woreda as there is no government organ that has a mandate to control the water points and resources at Kebele level. One of the mandates of the Water, Mineral and Energy Bureau is controlling and regulating water sources and points in its jurisdiction (Megleta Oromia Proclamation No.152/2009 , 2009). The water committee of the Kebele and the kebele administration said that the upstream community consume the water sources for irrigations and cattle. However, Fetiya Aman²⁶ said that “there is information that the Etosa Kebele community uses the water for their cattle and irrigation but we did not go there and check to take measure or to inform the concerned body about the issue.”

In addition, there is a problem in the pipe lines; many of the pipe lines are disconnected. But who is responsible for disconnecting it not discovered by Water, Mineral and Energy Bureau of the wordea; even if it has a mandate to do so (Megleta Oromia Proclamation No.152/2009 , 2009). This means the Bureau fails to take reactive measures by searching evidence for the problem. The deputy head of the Water and Energy Bureau said that the Water and Energy Bureaus of the two Wordeas have informal discussion when they meet at the Zone for other purposes. This means there is no formal discussion between them. She also said “when we discuss the issue informally they argue that the main reason for the disconnection is the decreasing of the recharging power of the water source.” The duty to protect requires the state to prove the action towards the violations, if not they are responsible as it is failed to prevent it (Chirwa, 2010). In this case the state organ that is the Water, Mineral and Energy Bureau does not have any evidence whether they have taken action or not. These clearly confirm that the Bureau failed to take neither preventive nor reactive measures.

The next higher government organ next to Water, Mineral and Energy Bureau of the Wordea is Water, Mineral and Energy Bureau of the Zone. At zone level they try to solve the problem by reallocating the water source through shift system but it is not implemented. Solution without execution amounts to no measure at all. Suggestion of solution cannot bring any change on the community who are suffering as a result of violation of their HRW.

²⁶ w/rt Fetiya Aman , Deputy head of Dodota Woreda Water, Mineral and Energy Bureau.

The community represented by the water committee of the Kebele and the Kebele administration reported the situation. Unfortunately, they did not get sustainable solution. This is because the individuals or a group who disconnect the pipe lines of the water are the member of the upstream community. As a result, the community is not willing to surrender the offender. There were times when the offenders are surrendered by the community but they are required only 1,000.00 ETB for bail to be released.

The community argues that the amount of money that is required for bail is not a guarantee to bring the offender back to the court. This is proved by the disappearance of offender after they released through bail. The court tries the case in the absence of the offender. But the sentence is not executed as the offenders ebbed from the place. This is a usual phenomenon. Despite the civil and criminal protection given for disconnection in article 1237(1) of Civil Code of Ethiopia and article 270(i) of the Criminal Code the practical applicability of these legislative protections has a gap.

4.3.2.1.3. Duty to Fulfil

This duty requires states to facilitate individual's ability to access water (CESCR General Comment No. 15, 2003). This is to ensure their affordability and carry out an obligation to provide them with equity whenever they are unable to enjoy the HRW for reasons beyond their control (CESCR General Comment No. 15, 2003).

The government facilitates individual's ability to access water by creation fertile conditions for NGOs. In the area the only NGO that involve in giving water service and facilities is ECC-SDCOM. ECC-SDCOM expanded and developed water points for the communities in 2004 EC from Kucher spring. The community used the water points for three years with a continuous disconnection. Currently, all the water points constructed by ECC-SDCOM are un-functional.

After the community starts using protected water source the community ponds are filled with silt and become un-functional. The challenge comes when the water points are disconnected from the sources. In such case, the community does not have any alternative in the locality. Then the community starts to use the waste water that is discharged from Wonji sugar factory. These problems should have caused government agents in the Kebele to take measures. In order to fulfil this obligation towards the HRW of the community government organs at the Wordea level take different measures.

The government also facilitates access to water by coordinating members of the community. The Development Agents who work in Farmer Training Centre (FTC) at Kebele level in collaboration with Kebele as one agent of the government are mobilizing the community to remove silts from the community pond that will increase the storage capacity of ponds²⁷ to hold water as a temporary measure²⁸. They also created awareness and mobilized the community to build ponds at household level. Moreover, they train the community to use HWTS system for water accessed from the ponds before consumption.

The other government agents that take measures to fulfil the duty of state are the Water, Mineral and Energy Bureau at Woreda level and the Kebele Administration. The measures taken by these agents include:

The Woreda Water, Mineral and Energy Bureau takes measures such as informing the case to the Zone and planning to change the water sources for the Community. The measure which was already started is changing the source from Edoetosa Kebele (Kucher spring) to lodietosa Kebele (Ade Mareye spring). It also agrees with the Etosa Woreda as well as the lodietosa Kebele administration. On the same time according to Omer Ali the Kebele mobilize the community to contribute their share for the expansion of the water source depending on their income and open a bank account for this purpose.

The measures to fulfil the duty also involve the Zone which is the highest state organ above the Woreda at its infant stage. The Zone tries to search a solution for the problem. These include establishing a committee which studies the problem and come to a point that there is scarcity of resources. After that the zone discusses with the water board²⁹ and passed a decision to distribute the water through shift. But this decision is not implemented.

4.3.2.2. Level of Obligation by Non-state Actors

The only duty bearer for the realization of HRW is not state but also not-state actors and the international community (WHO, 2003). As one of ESCR this right can be realized in two ways immediately and progressively (CESCR General Comment No. 15, 2003). The non-state actors and international communities have a great contribution for those communities who face a challenge to realize this right because of scarcity of resource (WHO, 2003).

²⁷ In the Kebele there are five community ponds and there are some household who have ponds.

²⁸ These ponds dry out during the dry seasons.

²⁹ Board is a body established by the agreement of two or more committees of rural portable water service organizations to direct these organizations, Megeleta Oromia, proclamation No.152/2009.

Both the non-state actors as well as international NGO through local NGO are involved in the realization of HRW for this community. The non-state actors that are involved in the realization of the HRW in this community include NGOs, individual community members, water committee of the Kebele and teachers in the School.

One of the responsibility of international NGOs is to build the capacity of partner local NGOs or civil society financially and technically (WHO, 2003). CRS/ETH as an international NGO is working in partnership with ECC-SDCOM which is a local NGO. Through this it is contributes to make HRW a reality for the community (CRS/ETH, 2009).

The major and life changing contribution to realize HRW in the Kebele had been undertaken by the ECC-SDCOM in partnership with CRS/ETH in 2004. This was the expansion of the Kucher spring from the Arsi highland to this Kebele. Accordingly to Ato Bekele³⁰ and Ato Lemma, eight water points had been constricted for the community. The community had been using water from the water points to realize its HRW for three years. In those three years the supply of water was not continuous. Measures such as investigation of the discontinuity by ECC-SDCOM in collaboration with local government organs were undertaken. Even if these measures are taken they are as such futile. Finally, it had been seven years since the Water was disconnected ones and for all. After the community realizes it's HRW and lost. The community members were involved and become active participant to realize HRW. These brought the change in the altitude of obligation by the non-state actor specifically individual community members to realize HRW. The action taken by individual community members will be discussed in the following paragraphs.



Figure 2. Reservoir constructed by ECC-SDCOM in partnership with CRS Ethiopia.

³⁰ Ato Bekele Abaire, WASH program manager CRS/ETH.

Individual community duty towards HRW include paying affordable fee to access water, securing and maintaining water connection through collective action, informing connection break for the concerned bodies , keeping water in safe conditions, disposing waste and waste water in a safe and sustainable way (WHO, 2003). According to Ato Omer, the individual community members are contributing from 100.00 ETB to 500.00 ETB based on their income for the expansion of the Ademareye spring to the existing water points. According Tilaye³¹, Edo³² and Fatuma, the community members are involved in temporary measures to realize their HRW such as removing silts from the community ponds, digging of ponds at household level, boiling of the water before consumption by some of the households.

The other non-state actor that has a mandate to represent the community concerning water issue is the water committee of the Kebele. The water committee mobilizes the community to manage the available resources such as community ponds, discuss the possibility of using Ademareye spring with Etosa Woreda Water, Mineral and Energy Bureau, communicates the problems of water for the concerned bodies. It also tries to investigate the main reason for the disconnection. However, it could not proceed with the investigation due to budget constraint.

One of the sectors that face serious challenge in the Kebele as a result of water problem is the education sector. The schools as an institution as well as the teachers in the school as individuals contribute for the realization of HRW in the Kebele. As an institution the school informs the concerned bodies such as the Water, Mineral and Energy Bureau and the Education Bureau at Woreda level how lack of water is affecting the learning teaching process. As an individual the teachers in the school contribute 100.00 ETB even if their residence is not in the Kebele.

4.4.The Challenges and the Prospects of the Human Right to Water

Certain factors affect the realization of HRW negatively or positively. The increasing population in the world, rising per capita consumption of water, management of water, global climate change, infrastructure developments and topography are some factors that may affect the realization of the HRW (HDR, 2006). In addition, the content of water, perception, socio economic status, gender inequality, age cohorts, spatial proximity and social proximity may also affect the realization of HRW (Phansalkar, 2007; Bain et al., 2012).

³¹ Tilaye Degfa , Development Agent of Badusa Betela Kebele.

³² Edo Worba , Development Agent of Badusa Betela Kebele.

4.4.1. Challenges of the Human Right to Water

There are so many challenges to realize the HRW of the community in this Kebele. They include geographical location of the Kebele, budget, rising per capita consumption of water and content of the ground water in the area.

The Kebele located in topical Zone (Kolla) which is a lowland experiencing hot climate. As a result, there is no potential water resource in this area such as spring. According to Lemma, the high fluoride content of the ground water and the depth of ground water in the locality much worsen the problem.

ECC- SDCOM digs out water at Dire Kiltu which is one of the Kebeles in Dodota Woreda; but it dries after some years because of the topographical location of the area³³. These realities forced the office to search for alternatives. The only alternative was extending the water sources of the surrounding area, that is, the water sources from Arsi highland. The expansion was undertaken in 2004 and the people who use community ponds and Awash River enjoy their HRW. However, access to water did not last long. Thus, some parts of the community argue that it is better to suffer with water born diseases than suffering from lack of water.

The community where the water source found argue that the main cause for the disconnection is scarcity. As the source spring is losing its potential through time the water source from the springs are not enough even for people who live in the sources area. According to Bedusa Betela community one of the factors limiting the realization of the HRW is the farmers of the Anaetosa Kebele who cut the pipeline to consume the water for their livestock and irrigation.

The other challenging factor to the HRW of the community is the fact that the place where they collect water from does not have enough functional water points. This forced the community to spend more hours in waiting their turn to fetch water from the long lines of plastic containers.

³³ The area is under the Ethiopian rift valley which experience high level of movement



Figure 3. Lines of plastic containers at temporarily disconnected water point at noon.

The other problem in the area is the budget allocated by the government is not enough to implement projects. They only cover administrative cost of the bureau. The only functional NGO in this area is ECC- SDCOM which supports and implements WASHCO activities. This is also one reason that limits the realization of the HRW in the community. According to Fatiya, deputy head of the Woreda Water, Mineral and Energy Bureau almost 75% of their work is supported by this NGO.

The other challenge to the realization of the HRW in the community is the non-sustainability of the measure taken by the concerned bodies. Currently, the Woreda in collaboration with the Zone is trying to create sustainable water use which the community is expecting with hope. This measure is extension of water resource from other wordea which have potential water resources. This plan is intended to be implemented in 2013/2014 but, this plan has not been executed by the Woreda Water, Mineral and Energy Bureau. Because the Bureau could not get an NGO which provides financial and technical support for the implementation of the project. Without the fund for the project, the plan of the Wordea is becoming just a dream.

4.4.2. Prospects of the Human Right to Water

Despite the severity of the problem caused by lack of water there are some prospects in the community to realize the HRW.

The measures taken by FTC and such as creating awareness on how to preserve and increase the water storage capacity of ponds by removing silt, mobilizing the community to construct small ponds at household level has contributed to the realization of the HRW. The measures

of health extension worker such as creating awareness on HWTS before consumption can be taken as a temporary prospect to realize HRW of the community.

The existence of water sources such as springs in neighbouring Woreda is a great opportunity for the realization of the HRW in the community. The acceptance of the proposed extension by the neighbouring Etosa woreda is a prospect to realize HRW.

There are so many measures that had been tried by the concerned bodies. Currently, the Water Mineral and Energy Bureau of the Woreda in collaboration with the Kebele and communities have started to implement a project. The Water committee argues that the measures taken so far have not brought any change. The water committee and the community as a whole are expecting a sustainable result from the implementation of the project. This plan conceived as a sustainable solution as this source serves the Dira city which is the capital of the Woreda the probability of disconnection is very low. The discharging rate of the source spring is 81 litres per second. This is four times greater than the previous water source which is also another opportunity for its sustainability.

The high motivation of the community to contribute everything they can afford for the construction or expansion of water point is a great opportunity for the realization of the HRW in the community. They hope that they will have water facilities and services in their locality.

The existence of water committee in the Kebele can be taken as a prospect to achieve the HRW in the community. As this committee has a mandate to enter into contractual agreements to expand, maintain and construct water services where it may be found necessary (Megeleta Oromia Proclamation No. 152/2009, 2009).

4.5.The Impact of Human Right to Water on Some Selected Human Rights

Water has multi-dimensional benefit and it is basic for survival. Lack of access to the required quality and quantity of water will have impact on other human rights (CESCR General Comment No. 15, 2003). This section discusses the impact of violation of the HRW on the right to education, health, food, work, children's right and human right of women. Moreover, it discusses the impact of violation of the HRW on freedom of religion.

The accessibility, quality and availability of water have a great impact on the right to health (CESCR General Comment No.14, 2000; Daci, 2012). The right to health is related to HRW. Therefore, states parties should take steps on a non-discriminatory basis to prevent threats to

health from unsafe and toxic water conditions (Ibid). HRW can be protected if states parties ensure the protection of natural water resources from contamination (Daci, 2012). The community in this Kebele is one of the communities where the minimum core requirements for HRW are not realized. The non-realization of the right has negatively impacted the health of community in the Kebele. For instance the prevalence of water born disease is much higher than other diseases. The household survey shows that the most prevalent diseases in the area are Diarrhea ³⁴(39.5%), Intestinal parasites³⁵ (27.9%) and Typhoid ³⁶ (20.9%). All the prevalent diseases in the area are related to water contamination. The main reason of the prevalence is the low quality of water available for individuals in the area.

The water born diseases cause much severe damage. Rate of prevalence is higher in children than in adults. According to the household survey, 93% of the respondents said that the most affected part of the family by water born diseases are children.

The accessibility of water also cause severe problem on the health of women who are responsible for fetching water. The women who do not have donkey are obligated to carry



Figure 4. A women going to water point.

heavy water bottle for more than six hours. As a result, five abortions are reported to the health extension worker in 2014. The health extension worker said “this number does not show the exact number of women who suffered from the heavy burden of water they carry”. A number of such types of cases are reported to the Woreda Health Center. Some of women who suffer from carrying heavy bottles of water are not reporting the case to health center and suffer much more than the one who report the

case. Therefore, the violation of the HRW impacts the health of the community in general; the impact is much worst on children and women.

³⁴ Cunna, Infection caused by contaminated water

,www.emedicinehealth.com/diarrhea/page2_em.htm#diarrhea_causes/accessed 24 February, 2014

³⁵ University of Maryland Medical Center, Caused by drinking infected water and poor sanitation, umm.edu/health/medical/altmed/condition/intestinal_parasites/accessed 24 February, 2014

³⁶ Balentine, caused by contaminated water and transmitted from person to person if the carrier do not wash their hands properly, www.onhealth.com/typhoidfever/article.htm /accessed 24February,2014

Pursuant to article 13(1) of ICESCR every individual has the right to education (ICESCR, 1966). 'As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities'(CESCR General Comment No.13,1999, para.1). However, lack of water negatively affects the right to education of children in the community.

In this Kebele the community is not willing to send their children to school especially their girl child. Accordingly, the respondents in the household survey (60.5%) do not send their children to school. The main reason is household labour specifically fetching water. The burden of fetching water is more on girl child than on boy child. In the survey, 53.5% respondents whose girl children do not attend school said that girl children are responsible for fetching water for the household. Girl child also misses class during menstruation as the school does not have water facilities and services. One of the FGD participants of water committee stated:

Most of the time we do not send our girl-child to school during their menstruation period as there is no water service and facilities in the school. It is inconvenient for them to attend their class without any concern.

There is also high dropout from school which mainly related to fetching water. The rate of dropout is highest on girls than that of boys. Students travel a long way to fetch water. This led to late arrival which results in missing of classes continuously. Finally, the students drop out from school. The high rate of dropout is revealed by the survey; in which 74.4% of the respondents attributed it to fetching water. One of the teachers in the FGD stated:

At the beginning of the year there were 118 students in my class but now there are only 60 students. Almost half of the students dropped out. The dropout is higher on girls than on boys. Out of the total dropouts, 40 students are girls and the remaining 18 are boys.

Case Two

The Impact of Lack of water on Education



Figure 5. A girl and boy from water point.

The students are forced to go to water point in their school uniform rather than attending their school. Ali and Ekma said that they should have water first. If they go to school without water in their home they are not the only one suffering as a result but also their younger brothers, sisters as well as the whole family. In the area, the school is in a shift. The students who were backing home from water point said that “being an afternoon shift is an opportunity”. “When we are in the afternoon shift we travel to the water point early in the morning and come home before it is the time for school. But the challenge comes when we are in the morning shift. The school start at 8:30 in the morning and it take three hours to reach the water point. Therefore, it is impossible doing both important things. So, we have to prefer one and that is fetching water than going to school.”

The physical accessibility of the HRW requires “physical security should not be threatened during access to water facilities and services” (CESCR General Comment No. 15, 2003). This is primarily aimed at protecting women and girl child against violence during their journey to access water (OHCHR, 2007).

However, the women and girls in this community are greatly affected as they are the ones who are responsible for fetching water and obligated to travel a long journey to access water. According to the survey, 58.1% of the respondents said that fetching water is carried out by women while, 27.9% of them said that girls fetch water. Boys and adults man share very insignificant percent. The household survey, FGD and KII show that the Women and girls are

the ones who carry the burden of fetching water. As a result they face different problems when they travel to the water points.

There are common problems that the women and girls in this community encounter during their journey to collect water. Some of them are rape, physical abuse, abduction and fear. According to the household survey, 55.8% of the respondents said that there is physical abuse and 30.9% of the respondents said that there is fear of abuse. This shows that there is high number of physical abuse and fear. It can be concluded that the physical security of the women and girls are highly threatened as the water services and facilities are not physically accessible. One of the participants in FGD with women groups stated:

We fear that there may be abuse. To avoid the fear as well as the actual abuse we use the strategy of travelling in a group to the water facilities and services. This led to loss of self confidence to travel alone.

In the FGD and KII, few participants denied that such abuse occurs. They said that they do not encounter anyone who faces such problem. Others argue that the women who face the problem fear to tell what happened to them except in exceptional circumstances. In the FGD with students the participants stated:

“One of our class mates who is 15 years old dropped out from school for unknown reason. It is said that her drop out was due to rape on the way to fetch water but she was afraid to tell her families as well as the concerned body about the fact. Some of the women who face abuse report the case to the police and obtain remedy but some of them are afraid of reporting and they confine their sorrow and pain to themselves.”

Lack of water in this community has a negative impact on right to work, suitable working condition and right to food. Water and food are inseparable for survival (Scanlon et al., 2004). The majority of the household in the community sustain life through agriculture. This means the supply of water will have a great contribution for the right to work and suitable working conditions of the community (Scanlon et al., 2004).

The source of water for farming activities of the entire household is rain. General Comment 12 on the right to food obligate States parties to ensure that there is adequate access to water for subsistence farming...” (CESCR General Comment No.15, 2003). States parties should engage in activities that are intended to strengthen people’s access to resources and means to ensure food security including production (CESCR General Comment No.12, 1999). There is no irrigation or other sustainable sources of water for farming in this community. As a result, the Kebele is frequently affected by draught. The scope of the right to work is not only for

wage paid work but also independent work such as agriculture (CESCR General Comment No.18, 2005). Therefore, the individuals right to work and food is affected in this community.

The household survey reveals that the average annual income of the respondents is 23,255.56 ETB and the average family size of the respondent's household is 6. Therefore, the average daily income at household level is 63.7ETB this shows that an individual have 10.62ETB income per day that is 0.50USD. This shows that individuals in the community are living below a poverty line that is one USD per day (Bambang et al., 2013) as a result of lack of water for agricultural activities. Although as one of state parties the government of Ethiopia has obligation to ensure adequate access to water for subsistence farming and suitable working condition (CESCR General Comment No. 15, 2003) the community in this Kebele is suffering from lack of water.

Case Three

The Impact of lack of water on the right to work and Food



Figure 6. A farmer in his dried fruit and seed farm and empty pond.

Abedela Edo is a resident in this kebele. His family has nine members. He said “the land that I have is not enough to sustain my family. I reproduce seeds for sale and have a farm of fruit. I used to be successful when the water points are functional. After the water points are disconnected I did not stop doing this. I started using pond as an option. This year there is no rainfall in autumn (Belg). My children miss classes to collect water for household consumption and farm. I know that missing class will have a great impact on their education but I do not have any option. I believe that survival must come first. Now, we access water point after travelling for three hours and waiting for a long line. It became difficult to get more water enough for household consumption and my farm. As a result I lost my seeds and my fruit farm which seriously reduced my income.”

From the above paragraphs and case it can be conclude that lack of water is greatly challenging the right to work and food of the community in general and the family in particular.

The HRW also has impact on civil right of this community such as freedom of religion. Freedom of religion includes the manifestation of one's religion by worship, observance, practice and teaching (CCPR, 1966). "The concept of worship extends to *ritual* and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship..." (CCPR General Comment No.22, 1993, para 4). According to the household survey by the FTC in the Kebele 99% of the community are Muslims (FTC, 2013). Islam is one of the world religions that relate purification with water (Anon., 2013). There is a ritual in Islamic teaching that a person should wash his hand, face and legs five times a day during prayer time (Holly Quran, 1997). That means the availability of water will have a crucial place to practice and observe one of the rules in the religion. The non-availability of water in the Kebele forced the community to use un-preferable alternative sources that is soil to practice and observe their religion. One of the FGD participants stated:

We even do not have access to the required water for drinking as a result we use options such as soil that replace water to practice one of the rules in our religion.

Chapter Five

Conclusion and Recommendation

5.1. Conclusion

The Human Right to Water is recognized implicitly in the International Bill of Rights. As a result it was not considered an independent right. Some state parties could not achieve to satisfy at least the minimum core obligation corresponding to the right amounts to violation. However, subsequent human rights instruments such as the CRC and CEDAW recognize the human right to water. General Comment 15 by the CESCR is a milestone for the HRW as it clearly explains the normative contents and the duty bearer. In Africa, the African Commission on Human and Peoples' Rights has developed strong jurisprudence on the HRW. Ethiopia recognizes the right to water through ratification of international human right instruments and promulgation of domestic legislation.

The study is conducted to assess level of the realization of HRW in Ethiopia with specific reference to one Kebele, Badusa Betela. It explained and assessed normative contents of the HRW. It has discussed availability, accessibility and quality of water in the study area. It has examined corresponding state obligations: duty to respect, protect and fulfil. It also discusses the role of non-state actors in the realization of HRW. Moreover, it has identified the challenges and prospects in the realization of HRW. It also examined the impact of states' failure to meet their minimum core obligation of HRW on the right to education, food, health, work, freedom of religion and the human right of women and children. The outcomes of the study identify the following findings:

A state should supply 20 liters of water per day to meet its minimum core obligation under the HRW. However, on average 15 liters of water which does not have the required quality is accessed by the community in this Kebele.

The water supplied should be safe. That means, it does not cause any significant health risks when it is consumed. However, the community in this Kebele is suffering from water born diseases such as typhoid, diarrhea and intestinal parasites. Moreover, the study reveals that the color, odor and taste of water accessed by Badusa Betela community is not normal: the color of the water is brown while its odor and taste is unpleasant.

The state should supply water that can be accessible within 1,000 meters of home and the time of collection should not exceed 30 minutes as its minimum core obligation. But the time of water collection for this community is six hours.

Accessibility of water includes accessibility of information concerning water commendably; information concerning water issues is widely accessible in the study area.

The study has assessed the level of state obligation towards HRW. The state has failed to respect and protect its duty. The state failed to respect its duty towards the HRW as the government owned Wonji Sugar factory discharges waste materials in to the Awash River which is the alternative water sources for the community. It has failed to carry out its duty to protect since it has not prosecuted and punished members of the upstream community who disconnect water supply. Even when there is prosecution and conviction court judgements are not executed.

To carry out its duty to fulfil, the state facilitates realization of the HRW. The government organs such as the development agents are engaged in mobilizing the community to remove silts and build private ponds at household level. The health extension worker raises awareness of the community to use HWTS before consumption of water from unprotected source. The Woreda Water, Mineral and Energy Bureau in collaboration with the Zone Water and Energy Bureau has agreed with Etosa Wordea to expand Ademareye spring to supply water for the Badusa Betela Kebele. The Kebele takes its part by mobilizing the community to contribute their share for the implementation of the project.

The realization of HRW in the community has challenges as well as prospects. The challenges include disconnection of water points by the Anaetosa community for their cattle and irrigation, lack of water resources such as spring in the area, the high fluoride content and depth of ground water, non-functional water facilities, lack of sufficient budget and lack of enough number NGOs operating in the area.

The prospects to realize HRW in this community include measures taken so far and participation of the community. The development agents and health extension worker created awareness on construction of ponds, the existence of reservoir and water points constructed by ECC-SDCOM in partnership with CRS/ETH, preservation of water in the community ponds and HWTS system. Active participation of the community, particularly participation by

the water committee of the Kebele and discovery of water source in the neighboring woreda is other prospects for the realization of HRW in the Kebele.

Furthermore, the study found that violation of HRW has negatively affected the right to health, education, food, work, freedom of religion and the rights of children and women.

5.2.Recommendation

The study reveals that the level of realization of the HRW in Badusa Betela Community is very low. In order to enhance the implementation of the HRW the following solutions are recommended.

- ❖ As a temporary measure the government should cooperate with NGOs and distribute materials that will be used for HWTS such as Weha Agare (a chemical used to water treatment) to improve the quality of water consumed by this community.
- ❖ The judiciary branch of the government specifically the local courts should give due weight when they encounter cases on disconnection, contamination and other cases that result the violation of the minimum core content of HRW.
- ❖ The government organs that have mandate on Water resources such as Water, Mineral and Energy Bureau at Woreda level should monitor and evaluate every aspect of water facilities and services on a timely base and should take measures on anybody that causes disconnection to water facilities and services. On the other hand Water resource Bureaus at higher level should conduct field monitoring and evaluation.
- ❖ The local government (Kebeles and Woreda) are too weak in terms of technical and financial resources. Therefore, the government should make maximum use of available resources to build the capacity by providing the necessary financial resources and technical supports. Other stakeholders should also collaborate to build the capacity of these organs by providing the necessary financial and technical supports.
- ❖ The designed plan of water expansion by the Woreda Water, Mineral and Energy office require a huge amount of financial resources for the implementation which is too burdensome for the poor country like Ethiopia to mobilize by its own. Therefore, the government should seek international cooperation for implementation of the projects.

- ❖ The concerned bodies should give due regard for the construction of water facilities and services in the school that will have an impact to increase enrolment rate and decrease dropouts.

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