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THE LEGAL AND POLITICAL DIMENSIONS OF THE BLOCKADE ON THE
WFP' FOOD AID BY THE ETHIOPIAN GOVERNMENT IN THE OGADEN
(2007-2012)

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1. INTRODUCTION

Could, a failing state¹, as Ethiopia², a dependent³ on the World Food Program (WFP)⁴ food aid⁵ country manipulate the UN relief as a weapon against the insurgency and do

¹ I espoused the definition adopted by the US State Failure Task Force according to which the sufficient element to characterize a State as failing is the existence of an 'widespread internal armed conflict', with various forms such as Revolutionary, Ethnic wars, adverse regime changes, Genocides and politicides, that further destabilizes an already instable regime. However, some international organizations, such as the World Bank, enrich the aspects of 'good governance' with the Political Stability and Violence, the Government Effectiveness, the Rule of Law, the Voice and Accountability (freedom of expression, freedom of association, and free media) and the Control of Corruption. Nevertheless, the international practice and more concretely countries such as China has shown that a State, even with a very low rating in the two last World Banks' indicators could be extremely powerful. (For a deeper analysis of the notion of the failing State see Valentin Cojanu, Alina Irina Popescu (2007) pp 116-117, 121-122.

² Ethiopia is ranked the 17th failing state for 2012 by the Foreign Policy magazine in collaboration with the Fund for Peace. The indicators that had been into account for this ranking were the democratic pressures, the refugees, the group grievance, the human flight, the uneven development, the economic decline, the delegitimization of the State, the public services, the human rights, the security apparatus, the factionalized elites and finally the external intervention see http://www.foreignpolicy.com/failed_states_index_2012_interactive, http://www.gambelatoday.com/blog/Headlines/post/The_2012_Failed_States_Index_Released_Ethiopia%E2%80%99s_ranking_reflects_deterioration/. However, it has to be noticed that some representatives of the Ethiopian State as its ex ambassador to the U.S, Samuel Assefa, in an effort to support the regime, denied that Ethiopia is a failing State (but see also a thorough criticism of this ambassador's position by Professor Alemayehu Gebremariam (2008).

³ Although the notion of 'dependency' is yet not definite, in the case of Ethiopia includes various situations such as the: a). Dependency syndrome, referring to the beneficiaries' psychological tendency to wait for an assistance b). Dependence of population on the foreign food aid c). Interdependence of politicians and people as the aid is distributed according to a nepotistic and clientelistic logic. e). Dependence and negative interaction of the local agriculture with the food aid as the latter triggers a decrease of the price of local farm produce and therefore a discouragement of farmer investment in their own production. d). Dependence of the State's institutions, that are involved in the distribution of food, on donor agencies see Jeremy Lind, Teriessa Jallela Poverty (2005) pp 10-13,42

⁴ WFP is the main international organization involved in the food aid, the other being the Food and Agriculture Organization of the UN (FAO), the Food Aid Convention (FAC) and the World Trade Organization (WTO). All these organizations have different mandates and address different aspects of the provision of food aid. WFP's core activities are ' a). to provide food aid to save lives in emergency and disaster situations b). to improve the nutritional status of the most vulnerable people c). to promote the self reliance of poor people, particularly through labour intensive work programs' for a further analysis see Action aid (2003) pp 8-9.

⁵ World Food Program (WFP) has launched in 2012 a variety of operation that aim to address the food insecurity in Ethiopia. With these programs WFP aims to provide relief after natural disasters and supplementary food distributions in food-insecure areas, to address the causes of vulnerability and disaster risk, to provide food assistance to Sudanese, Somali and Eritrean Refugees, to facilitate the movement of humanitarian operations, to ameliorate the logistics of food supply chain and finally to improve the food transfer activities in the Horn of Africa Region (for a more detailed analysis of these operations see WFP ETHIOPIA (12 April 2012) Biweekly Report p 4). It results from the above that the UN efforts against the phenomenon of starvation, are not limited to a mere distribution of food but they consist on multifarious and interacting activities that necessary involve the agriculture, the development and the transportation sector (these WFP's operations are parallel to the Ethiopian Commodities Exchange (ECEX), a mechanism inspired and applied by WFP to deal in wheat, maize, teff (a local staple), coffee, pea-beans and sesame, to control the warehousing and to inspect goods (http://www.economist.com/node/9304411?story_id=9304411)). However, the withdrawal of the government's involvement in the agricultural and food sectors, due to the foreign food aid, results in a loss of food sovereignty and in a democratic deficit since citizens do not have any saying in crucial

not receive any sanction but instead continue seamlessly receiving it ? The answer is positive if other powers, especially the UN Security Council (SC) permanent members, for their political reasons, interfere and support the recipient country of the aid in breaching the international law. This is the result of the will of the Second World War winners to dominate the planet. Thus when drafting the UN Charter, they omitted to establish institutions in the UN system i.e formal legislative body, Court machinery with general compulsory jurisdiction to secure States' rights and judicial executive body to enforce sanctions against the violator of international law⁶. Instead they attributed the exclusive, and for many analysts, the unrestricted competence to manipulate the international questions to the SC⁷ in which they became permanent members armed with a veto power⁸.

Ethiopia exploits these *vacuums* of the UN system, the anarchy that dominates the international community⁹, as well as the reluctance of the UN to cut its food assistance when the international law principles, that govern its food program, are not respected¹⁰. Therefore, Ethiopia applies a WFP food blockade with immense humanitarian consequences¹¹ in the south part of its territory, the Somali Region (the

decisions that affect their lives. It also leads to a loss of accountability as relief agencies are only accountable to their donors, and not to the recipient of the aid. Finally, foreign food assistance results in a decrease of effectiveness, efficiency and flexibility since the relief agencies aim only to reduce food insecurity in a short term while usually they provide the aid under more complex procedures than the local authorities see Anuradha Mitall (2005) p 20.

⁶See Martin Dixon (2007) pp 1-19.

⁷ For the opinion that the SC is not bound by the international law see by Gabriel, Ooshhuizen (1999) p 549. The opposite position is also supported see Herndl, Kurt (1987) pp 316-317.

⁸ As aptly some theorists state 'The determination of the Great Powers that the Charter should leave intact their freedom of action in any field conceivably affecting their vital interests, was beyond doubt. This is the simple truth behind all the tangled euphemism of 'the veto' without which the United States and the Soviet Union at least would not have accepted the Charter' see Donald R. Rothwell, Afshin A-Khavari, Stuart Kaye, Ruth Davis (2011) p 631.

⁹ As theorists state '*Anarchy is a kind of order, one in which the enforcement of agreements is "decentralized" i.e. conducted by the parties to the agreement rather than some third party*' see Moonhawk, Kim Scott Wolford (2012) p 3. Realists and liberals agree that States act under anarchy but for the first the international system is in a constant state of war and therefore that permits international anarchy while for the second customs, laws, and institutions can preclude anarchy. For a deeper analysis see Joseph M. Grieco (1993) p 123 and William Wohlforth in Steve Smith, Amelia Hadfield, and Tim Dunne Doyle, Michael W. (2008) pp 59-60.

¹⁰ In the UN there is no agreement whether or not WFP should stop food assistance when the principles and standards of public international law, relating to food aid as the non discrimination to the distribution of food, are violated. Some argue that this question is political and has to be answered during the negotiations for the food access as an aspect of conditionality. Others support that a uniform policy cannot be followed since there is no homogeneity of the needs in all the cases. However, a consensus has been reached in the UN that the decision to use WFP's influence in order to promote the international law principles must be shaped according to specific considerations in any concrete case. Finally, another agreement has been reached according to which, for the food distribution, it must be taken into account variables such as the WFP's long-term credibility and the tonnage based approach see WFP (2009) p 9.

¹¹ It results that the Realists' statements that '*anarchy not merely allows but encourages the worst aspects of human nature to be expressed*' and that in the absence of an international government '*the law of the jungle still prevails*' are in this case rather justified see Jack Donnelly (2000) p 10.

administrative Region V), the Ogaden¹². Following this strategy, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), that rules the State since 1991, strives to stifle a revolutionary movement which acts in the area, the Ogaden National Liberation Front (ONLF)¹³ that battles for the Ogaden's¹⁴ independence.

In the current essay initially i will try to prove my first assumption that the manipulation of the WFP food assistance by the Ethiopian authorities, as a war mean in the battle against ONLF, is not compatible with the international law. Thus in a first sub-section i will analyze the relevant legal provisions, while in a second sub-section i will subsume the facts relating to the starvation policy, to the international law in order to draw conclusions on the legality of this Ethiopian policy against the revolutionary.

In a second part, I will try to consolidate my second assumption that the WFP food aid blockade in the Ogaden has implications not only in the Ethiopian territory but also in the Horn of Africa and to the international field. Thus in a first time, I will explain the impact of the food starvation in a game of sovereignty in the Ogaden, where the right to 'self determination' of the Ogadeneni is juxtaposed with that of the 'territorial integrity' of the Ethiopian State. In a second time, I will clarify the role of the famine as a tool against the destabilizing activities of the ONLF, Eritrea and Al Qaeda in the Horn of Africa. In a third time, I will analyze how the WFP aid blockade by consolidating the Ethiopian regime, as a basic ally of the US, China and the EU,

¹² The word Ogaden is the name of one of the Somali genealogical groups that inhabit the area see Abdi Ismail Samatar (2004) p 1151.

¹³ However it has been contested whether ONLF represents all Ogaadeni, see Abdi Ismail Samatar, *op.cit* p 1137.

¹⁴ The Ogaden has suffered many conflicts for its domination. In the 13th and beginning of the 14th centuries AD it belonged to the Somali Ifat Sultanate which was succeeded by the Adal Sultanate. During this period there was a permanent conflict between the Adal's Sultanate and Abyssinia (another name for Ethiopia). At the first half of the 16th century, the most of the Abyssinian territory was conquered by the Adal's Sultanate. But during the last quarter of the 19th century, the Ogaden was reoccupied by Abyssinia which consolidated its domination by treaties in 1897. Ethiopia until 1934 exerted soft administrative control at the region nearby Jijiga, a city in eastern Ethiopia and today's capital of the Somali Region of Ethiopia. Thereby, Italy annexed the region to Italian Somaliland in 1936 after its conquest of Ethiopia. Following their conquest of Italian East Africa, the British tried to unify the Ogaden with British Somaliland and the former Italian Somaliland, in order to create the 'Greater Somalia'. Ethiopia pleaded before the London Conference of the Allied Powers to gain the Ogaden in 1945 but the British under the US pressures conceded in 1948 almost all of the Ogaden lands to French Somaliland (modern Djibouti). The British returned these last parts to Ethiopia in 1954. In 1977 the Ogaden was invaded by the Somali army which fought with the Western Somali Liberation Front (WSLF) in an effort to establish the 'greater Somali region'. Ethiopia, with the support of USSR defeated WSLF and Somalia by 1978. Throughout the 1980's, during the Cold War, Somalia and WSLF obtained alliance with US that allowed the insurgency to continue operating in the Ogaden albeit with limited success. In 1988, armed clashes between WSLF and the Ethiopian troops reemerged albeit quelled by Ethiopia. Therefore the WSLF and the Somali Abo Liberation Front, another revolutionary movement, metastasized to the ONLF in 1984. Since then the latter has been implicated in a series of attacks on Ethiopian infrastructure, as in an oil refinery in 2007 in the Ogaden that triggered a series of sanctions by the Ethiopian state including *inter alia* the WFP aid blockade, that will further be examined in the current essay see Mohamed Abdi, (2007) pp 4-12, Bahru Zewde, (1991) pp 113,180, I.M. Lewi (2002) pp 59, 61 and Ezekiel Rediker (2004) pp 203-217.

has positive impact to the fulfillment of the latter's interests in the security and economy sector in a globalized environment.

Finally, in a third part, I will make a comparison of the food blockade in Ogaden *in space* and *in time*. Thereby, in the first sub-chapter, i will analyze the similarities and differences of the starvation policy, that the Ethiopian State run in the Ogaden since 2007, with the famine tactics applied in 1984-1988 by the Ethiopian Government of that time, the Derg¹⁵, against the Eritrean and Tigrayan insurgency, that were fighting for the creation of their own State. In a second sub-chapter, i will proceed to a comparative analysis of the food blockade applied in the Ogaden with this implemented in Gaza by the Israeli Government from 2007 until today.

2. PART 1

A legal assessment of the Ethiopian blockade on the WFP'S food aid in the Ogaden: a). A famine policy in an internal conflict as a violation of the international humanitarian law

Is a famine policy implemented by a government against its citizens contrary to the international law? In order to answer this question I will examine in a first time whether famine is a '*violation of the right to food*'. In a second time I will analyze the starvation State option as an infringement of the international humanitarian law.

What is the definition of famine? According to David Marcus "famine" is "a particularly virulent form of starvation causing widespread death."¹⁶ In the theoretical field, the question whether exists 'a right to food' in the international law and therefore, whether the famine constitutes violation of this right is controversial. What are the legal foundations of this right? The main texts of international human rights, that refer to a 'right to food' are the Universal Declaration of Human Rights (UDHR) and its descendant, the International Covenant on Economic, Social and Cultural Rights (ICESCR) both ratified by Ethiopia in 1948¹⁷ and 1993¹⁸ respectively. The UDHR¹⁹ provides in the article 25 para 1 that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food. The ICESCR (art 1(2) stipulates that "in no case may a people be deprived of its own means of subsistence"²⁰. It also recognizes two fundamental rights a). the right of everyone to an adequate standard of living ..including adequate food and (art 11 para 1) and b). the right to be free from hunger (art 11 par 2).

¹⁵ Derg means "committee" in Amharic and is the name used for the junta led by Colonel Haile Mengistu Mariam that ruled Ethiopia from 1974 to 1987. The Derg governance was authoritarian, highly repressive and adopted the Marxist-Leninist ideology see Marc J. Cohen, Rocchigiani, James L. Garrett (2008) p 6.

¹⁶ David Marcus (2003) pp 246-247.

¹⁷ <http://www.unspecial.org/UNS679/t21.html>

¹⁸ <http://www.aprendelo.com.br/rec/international-covenant-on-economic-social-and-cultural-rights.html>

¹⁹ UDHR is not legally enforceable see Dina Pomeranz (2001) p 5.

²⁰ See also Human Rights Committee, General Comment 6, 30 April 1982, para 5.

Some analysts consider that article 11 of the ICESCR is enforceable under the argument since it constitutes one of the *generally accepted standards* of international law²¹. Their reasoning is reinforced by the fact that this right has been incorporated in many other legal texts²². They argue also that the 'largely accumulated empirical evidence ie an amount of comparative case law, proves that judges adjudicate situations of alleged violations of the economical, social, and cultural rights (ESC) rights' in which belongs the right to food²³. Other theorists deny that article 11 has a legal binding force since the ESC are not suitable for judicial adjudications since their nature differs from this of the political and civil rights²⁴. I share the latter position, which is also corroborated by the international practice, that shows that States have more the tendency to refer to the *principle of progressivity*²⁵ rather than to accept the right to food as a legal obligation on them²⁶.

Besides the above texts, the General Comment 12 requires for the States to ensure "at the very least, the minimum essential level of food to be free from hunger" (para 17) and to fulfill the right to food (para 15), that further creates the obligation to facilitate and to provide food²⁷. However, General Comments are not legally binding even if they constitute authoritative interpretation of the ICESCR²⁸.

Furthermore, other texts as the Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security adopted by FAO in 2004 describe how States should implement their obligations under Article 11 of the International Covenant on Economic, Social and Cultural Rights but they include only recommendations, resolutions or declarations²⁹.

Finally, the Food Assistance Convention relating to food assistance, adopted on 25 April 2012 in London, that aims at "addressing the food and nutritional needs of the most vulnerable populations" has not until now entered to force³⁰.

It results from the above that considering a State starvation policy as violating the right to food is problematic since the justiciability of this right is contested by

²¹ Ian Brownlie (1987) para 16.

²² For a citation of these instruments and their legal force see Olivier De Schutter, the UN special rapporteur for the right to food <http://www.srfood.org/index.php/en/right-to-food>.

²³ See Christian Courtis (2007) p 318.

²⁴ For a further analysis see A. Neier (2006).

²⁵ This principle, incorporated in the art 2 para of the ICESCR, means the obligation for the State to take steps with a view to achieve progressively the full realization of the right to food (according to FAO this obligation is explicit and justiciable see FAO (2006) pp 76-79. This principle is also reaffirmed in the UN General Assembly (GA) Res. 56/155, 2, 4 (Feb. 15, 2002) resolution, in the 1996 UN Rome Declaration on World Food Security in the Plan of Action and in the General Comment 12 of 1999 of the Committee on Economic, Social and Cultural Rights (para. 14).

²⁶ The same opinion is supported by David Marcus *op.cit* p 249.

²⁷ See Susan Randolph & Shareen Hertel, (2012) pp 3-4.

²⁸ FAO (2003) p 2.

²⁹ The Guidelines are voluntary, i.e. they contain no binding elements see FAO (2004) p 8.

³⁰ For some analysts the setting out of this right in the Convention's preamble is a quite clear acknowledgement of the legal existence of this right see <http://www.trust.org/alertnet/news/new-food-assistance-agreement-to-take-effect-in-2013>

theorists³¹ with the practice of States to show that this right has not legal binding force³².

Thereby, it arises the question whether the manipulation of food by a State in an internal conflict a breach of the international humanitarian law.

In order to answer this question I will previously examine the connotations of the basic legal texts that constitute the international humanitarian law applicable to internal armed conflicts³³. Article 3 common to the four Geneva Conventions, that bind rebels as well as it reflects customary international law³⁴, provides that “an impartial humanitarian body... may offer its services to the parties to the conflict”. This article has the following connotations: a). Humane and non discriminatory³⁵ treatment, of persons, that do not participate in hostilities, is a main obligation. Therefore denial of food or lack of access to food constitutes a clear violation of the humane treatment. b). Humanitarian organizations have the legal right and obligation to offer their services including food aid to civilians³⁶³⁷. Therefore, relief

³¹ Although the legal force of the international instruments that refer to a right to food is contestable, *the normative content* of the right is defined in an undisputable manner in the General Comment No. 12 of the Committee on Economic, Social and Cultural Rights (1999) as: “*The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement*”. Furthermore, the right to food under is related to three notions ie availability, access, and adequacy see FAO (2009) pp 11-19. Finally, the right to food must be distinguished from the ‘food security’ defined on the World Food Summit in 1996 since, the two notions, despite their considerable resemblance, have different objectives and methods used to pursue them. For a comparative analysis of the two notions see Kerstin Mechlem (2004) pp 643-645.

³² The contrary conclusion reach other analysts. Therefore, in the case of Zimbabwe, Smita Narula considers that the Zimbabwean government in 2000 and 2001 backing groups of war veterans in restricting enormously people’s access to food violated the right to food see Smita Narula (2006) pp 12-13.

³³ For a citation of all these legal instruments see JUSTITIA ET PACE, INSTITUT DE DROIT INTERNATIONAL (2009) p 3.

³⁴ See Eve La Haye (2008) p 120. See also Kogod Goldman (1987) pp 547-548.

³⁵ Discrimination is “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms” (Human Rights Committee, General Comment 18, *Non-discrimination*, 10 November 1989, paragraphs 7 and 13). Non-discrimination in the case of the food aid does not mean that food has to be distributed equally to all individuals, groups or parties to an armed conflict. Rather, it means that food has to be distributed only on the basis of need, regardless of any other consideration. In this logic only vulnerable groups could obtain a preferential treatment. The Non-discrimination principle applies also in emergency situations. Furthermore, while the right to adequate food is to be realized “progressively” under article 2 of the ICESCR, the non-discrimination principle is a legal obligation with immediate effect see FAO (2002) pp 55-58.

³⁶ Nevertheless, the right of humanitarian organizations, as well as this of donor governments and NGOs, to intervene is not ‘blank check’. The relief actors have to respect the principles: a). of impartiality b). of non-discrimination c). of providing ‘Special protection and assistance for vulnerable groups’ d). of ‘gender equality’ e). of ‘providing emergency and longer-term relief,’ f). of ‘protecting the environment’ when providing food, g) of ‘adequacy standards’ ie the obligation to offer food aid in consistence with the dietary habits and nutritional needs of recipients see FAO (2002) *op.cit* pp 55-78.

³⁷ The importance that the international community gives to the humanitarian assistance in internal conflict is one more time proved under the ICC Statute (art 8 e iii) which provides that attacks against

organizations are authorized to intervene in a country which is plagued by internal war and to vindicate their ‘humanitarian space’³⁸. It results that humanitarian interventions cannot be interpreted as an inadmissible attempt to interfere in the affairs of the State concerned³⁹. However, a State could refuse its agreement to impartial relief activities but only for valid and not arbitrary or capricious reasons⁴⁰. Nevertheless, new developments of international humanitarian law have established that if a civilian population is threatened with starvation and a humanitarian organization is able to remedy the situation, the State is obliged to give its consent⁴¹.c). Article 3 also recognizes the right of the civilian population in non-international conflicts to receive humanitarian aid⁴².

Furthermore, the prohibition of starvation as a method of warfare in non-international conflicts is also found in the Additional Protocol II⁴³ which applies cumulatively with the above mentioned common article 3. Art 14 of the Protocol II provides that ‘*Protection of objects indispensable to the survival of the civilian population* Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless for that purpose, objects indispensable to the survival of the civilian population such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works’⁴⁴.

Blockades also of cities and regions that cause starvation have been condemned by the UN and other international organizations in Afghanistan and the territories occupied by Israel⁴⁵.

personnel, installations, material, units or vehicles involved in humanitarian assistance (or peacekeeping) missions in non international conflict constitute a war crime.

³⁸ The notion of ‘humanitarian space’, has been described firstly by Rony Brauman, the former Médecins Sans Frontières (MSF)’s President as “*a space of freedom in which we are free to evaluate needs, free to monitor the distribution and use of relief goods, and free to have a dialogue with the people*”. This freedom is granted to all actors, i.e. both donors and recipients of international aid and non-governmental organizations (NGo’S). A basic component of the ‘humanitarian space’ is the obligation for the States to ensure the respect and the protection of relief personnel, an obligation that, concerning the UN relief personnel, exists in the 1996 Convention on the Safety of United Nations and Associated Personnel see ICRC (2011) p 1.

³⁹ See Tsitselikis Constantinos (2001) p 143.

⁴⁰ See Sandoz Y., Swinarski C., Zimmermann B (1986) (para. 2805) p 819.

⁴¹ See Henckaerts J.-M., and Doswald-Beck, L. (2005) p 197.

⁴² Jelena Pejic (2011) p 1006.

⁴³ Ethiopia became a party to the Geneva Conventions in 1969 and to additional Protocol I and II in 1994([http://www.icrc.org/IHL.nsf/\(SPF\)/party_main_treaties/\\$File/IHL_and_other_related_Treaties.pdf](http://www.icrc.org/IHL.nsf/(SPF)/party_main_treaties/$File/IHL_and_other_related_Treaties.pdf)).

⁴⁴ For an interpretation of this article see ICRC (1987) pp 1455-1460. The starvation policy is also condemned in the resolutions adopted by the International Conference of the Red Cross and Red Crescent in 1995 and 1999. However, even the Red Cross rather accepts that these resolutions are essentially recommendations or exhortations (<http://www.icrc.org/eng/resources/documents/misc/57jmr8.htm>).

⁴⁵ See Jean-Marie Henckaerts, Louise Doswald-Beck (2005) pp 187-189. However, blockade, in an armed conflict as ‘a form of siege, intended to interrupt transportation and facilitate the defeat of the enemy by cutting supplies’, exists as a belligerent right under international law, even if in practice blockades usually affect the civilians see Peter Macalister-Smith (1991) p 445. Nevertheless, this right is granted only to belligerents in international conflicts see Elizabeth Wilmshurst (2012) p 302. The same right of ‘blocking’ is granted to the UN Security Council under art 42 of the UN Charter ‘D’Amato, Anthony A. (1995) p. 138.

It results from the above that a food blockade is repugnant to the common article 3 of the four Geneva Conventions, to the article 14 of the additional Protocol 2 and to UN resolutions.

Then follows the question whether the food blockade on the WFP' food assistance, applied by the Ethiopian authorities, violates the above provisions. In order to answer this question I will cite the facts relative to the WPF food blockade and after I will conclude on the legality of the manipulation of food in the Ogaden.

b).The illegal barriers of the Ethiopian government to the WFP food assistance

In April 2007 the ONLF stormed a Chinese-run oil field in 2007 in the Ogaden, killing more than 70 people, including nine Chinese workers⁴⁶. Since then Ethiopia has launched, "counterinsurgency operations" in the Ogaden⁴⁷, which aim to enfeeble this independence movement and to restrict the local's support to ONLF if not to punish and exterminate them⁴⁸.

These measures against the rebels, that include military campaigns of forced relocations and destruction of villages, arbitrary detentions, torture, and mistreatment in detention, as well as executions of Ogadeni⁴⁹, encompass also tactics that aim to restrict the production and the availability of food⁵⁰. The latter tactics, could be divided in those constituting internal economic measures⁵¹ and in those relating to the aid assistance provided by humanitarian agencies and NGO's in which the current essay will be limited. The latter could be further divided in the following categories:

a). Manipulation of food as a "weapon of war". Food aid, instead of reaching the most vulnerable groups is diverted to the Ethiopian State's militia partners⁵² as payment for their dirty work ie carrying out ethnic cleansing and mass murder⁵³. The State army has also withheld food from villages in the Ogaden deliberately as part of a 'scorched earth' policy against ONLF⁵⁴.

⁴⁶ http://www.nytimes.com/2007/04/25/world/africa/25ethiopia.html?_r=0. Ethiopia considers the ONLF as a terrorist organization see Wondwosen Teshome (2009) p 65.

⁴⁷ It has to be noticed that Ethiopia applies in the Ogaden a 'state of exception'. However, as it was already underlined above, principles as the non discrimination in the distribution of aid apply even in an emergency regime see Tobias Hagmann, Benedikt Korf (2012) pp 4-7.

⁴⁸ See GINBOT 7 (2011).

⁴⁹ For a exhaustive analysis of these anti-separatist measures see HRW (2008) pp 33-75.

⁵⁰ However, Ethiopian officials deny that they apply a starvation policy in the Ogaden (<http://news.bbc.co.uk/2/hi/africa/6928117.stm>). Nevertheless, it is extremely difficult to cite the facts since the Ethiopian army has imposed severe restrictions on the media <http://www.genocidewatch.org/ethiopia.html>.

⁵¹ These measures further can be grouped into two categories: a). The Trade Embargo measures. b) The Restrictive measures on movement of civilians, herding, and access to water resources (for a further analysis see HRW (2008) *op.cit* pp 81-92.

⁵² HRW (2008) *op.cit* p 92.

⁵³ <http://rense.com/general95/feeding.html>

⁵⁴ www.timesonline.co.uk/tol/news/world/africa/article4776062.ece

b). Abuses on the whole system of the distribution of the WFP food aid. That means inadequate independent assessment of needs, arbitrary distribution of food aid and the lack of post-distribution monitoring system that ensure that the food is not being diverted⁵⁵. Ethiopian National Defense Force check points also cause delays of food deliveries into the Somali region of Ethiopia^{56 57}

c). Severe restrictions on the movement of WFP, which has as a result that civilians have not access to the relief⁵⁸. Furthermore, the Ethiopian army put pressure on the UN agencies to stay only in major towns and takes responsibility of distributing food through government departments⁵⁹.

d). Threats, captures and killings of UN employees responsible for the food assistance. The Ethiopian State threatens Ethiopian nationals working for the UN assessment mission⁶⁰. WFP workers get jailed⁶¹, kidnapped or killed⁶². However, the attacks on the UN personnel are rather isolated events.

⁵⁵ HRW (2008) *op.cit* p 91. See also HRW (2010) pp 45-46.

⁵⁶ <http://www.telegraph.co.uk/news/wikileaks-files/somalia-wikileaks/8302119/ADMINISTRATOR-FORES-VISIT-TO-THE-OGADEN-URGENT-NEED-FOR-MORE-FOOD-DISTRIBUTION-POINTS-AND-MALNUTRITION-INCREASES.html>

⁵⁷ WFP had an unintentional contribution to the first two abuses on food aid since at the begging of the Ethiopian anti revolutionary measures, it had not an immediate involvement in the distribution of food but only supported the Ethiopian State Federal Disaster Preparedness and Prevention Agency to the transport of the food to final delivery points (FDPs). That permitted abuses by the Ethiopian state in the distribution of food. However, the situation has relatively ameliorated since September 2008 when WFP established a “Hubs-and-Spokes” system under Special Operation (SO) project to augment logistics capacity by setting up storage “hubs”, then dispatching via “spokes” and using local transporters in an effort to deliver itself the relief to the FDPs. See WFP special operation SO (http://one.wfp.org/operations/current_operations/project_docs/107211.pdf) see also (<http://www.humanitarianlogistics.org/news/wfp-logistics-operations-in-the-somali-region-of-ethiopia>).

⁵⁸ Joëlle Zwaal (2012) pp 60-62. Besides the WFP, Ethiopia has severely almost expelled all the humanitarian agencies from operating in the conflict-affected areas of Somali Region under the pretext that they support the ONLF which is a clear violation of the ‘humanitarian space’ notion and the relative legal provisions as it was explained above see Crisis Group (2009) p 35.

⁵⁹ http://www.garoweonline.com/artman2/publish/Press_Releases_32/Ethiopia_Emergency_Aid_must_reach_its_intended_beneficiaries_in_the_Ogaden_printer.shtml and http://nazret.com/blog/index.php/2008/01/01/food_security_at_risk_in_ethiopia_s_soma.

⁶⁰ HRW (2008) *op.cit* 90.

⁶¹ <http://www.thebureauinvestigates.com/2012/06/22/un-officer-jailed-under-draconian-ethiopian-anti-terror-laws/>.

⁶² See the attack that took place next to Jijiga on 13 May 2011 (<http://www.voanews.com/content/un-agency-to-resume-ops-in-ethiopias-ogaden-following-fatal-attack-122239309/158147.html>). However, the responsibility for this event is contested by the Ethiopian State as well as by the ONLF with the US State of Department to attribute the fact to the ONLF (<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186196#wrapper>)

All these intentional tactics⁶³ applied by the Ethiopian State⁶⁴ constitute a clear violation of the common article 3 of the four Geneva Conventions and of the article 14 of the additional Protocol 2 as I argue in my first assumption.

But what are the political internal, regional and international implications of this starvation policy?

3. PART 2

The implications of the Ethiopian starvation policy in the Ogaden: a). The internal dimension: The WFP food's blockade as an arm in the confrontation between the Ogadeni 'self-determination' and the Ethiopian 'sovereignty'.

First in the internal field, the food blockade is used as a military instrument in a non-international armed conflict (NIAC)⁶⁵ between the ONLF and the Ethiopian State for the domination of the Ogaden. But while in political terms the conflict is quite simple, since it consists on a State struggle against an internal movement that vindicates its independence, in legal terms the question is more complicated. In the legal field there is a confrontation between 'the right of self determination' evoked by the ONLF against the right to the 'territorial integrity' invoked by the Ethiopian government. In order to conclude on the question which of this rights prevails over the other in the Ogaden case, I will previously examine *in abstracto* the content, the legal base, the

⁶³ From a comparative point of view, the manipulation of WFP' aid against the ONLF is significantly inferior to this applied from 2006 to 2008 to the Liberation Tigers of Tamil Eelam by Sri Lanka. The latter evoking 'security issues' a). imposed restrictions on food supplies b). used relief as cover for military maneuvers c). used visas and other bureaucratic impediments to reduce the damaging information derived by the aid agencies. d). presented to the international community the UN aid as 'government food'. e) used the relief operations to promote globally the 'UN good services' after having ensured in return the silence of UN agencies for the government's atrocities. f). degraded UN relief operators to a 'subagency of the government'. g). dictated terms to the international community delivering to the public news according not to the real food needs of the population but to the political goals of the government. h). finally, forced the WFP to evacuate the region. It results the superiority of the Sri Lanka tactics over the Ethiopian ones that justifies the David Kee's allegations that the Sri Lankan example could offer lessons to other recipient countries in the manipulation of WFP food aid see WFP (2009) *op cit.* pp 55-59.

⁶⁴ However, it could erroneous to demonize the Ethiopian government and to sanctify the ONLF. The latter has also been responsible for serious violations of international humanitarian law for a detailed analysis of the ONLF abuses see HRW (2008) pp 5,99-103. Nevertheless, the evaluation of the ONLF tactics under the international law is beyond the scope of the current analysis.

⁶⁵ The classification of conflicts has decisive importance in order to determine the applicable provisions of the International Criminal Law when International Criminal Courts are seized Thereby, I consider that the Ogaden conflict is a NIAC as far it fulfills the two criteria, set by the International Criminal Tribunal for the former Yugoslavia (ICTY) 'the intensity of violence' criterion since the Ethiopian army has committed large-scale atrocities (see HRW (2008) *op.cit* pp 35-80). and the 'organization of the armed group' criterion since the ONLF is a well organized group with an armed wing that effectively carries out military operations (see the attacks in Jijiga Peter Pham (2007) and other attacks (http://www.news24.com/News24/Africa/News/0,,2-11-1447_2260472,00.html, <http://www.sudantribune.com/spip.php?article33129>). For an ampler theoretical analysis of these criteria see Chatham House (2012) pp 5-6.

potential beneficiaries of both rights, the superiority of one right over the other and the case of Eritrean that seceded from Ethiopia in 1993.

First what is the notion of the Self-determination? 'It is, at most basic level, a principle concerned with the right to be a state'⁶⁶. Self-determination, albeit an ambiguous concept is 'one of the most important driving forces in the international community' since it serves as the political and legal base⁶⁷ for the perpetual redesign and reshaping of the international community.

Theorists state that self determination has internal and external connotations. Internal aspect firstly refers to right of peoples to be entitled of the right to freely pursue their economic, social and cultural development independent of the domination of another State and secondly to the citizens' right to freely elect their representatives to the political institutions. External aspect envisages a right to political independence and furthermore a right to secession⁶⁸. Here I will examine the latter shade of the right.

What is the legal foundations of this right? The legal basis is article 1 (2) of the UN Charter, which provides that one of the UN objectives is '*to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples*'. The above text was enriched with the UN General Assembly (GA) resolutions 1514 (XV) as well as the 1970 Declaration on the Friendly relations. Furthermore, this right was also entrenched into two fundamental human rights conventions, the International Covenant on Civil and Political Rights (ICCPR) and ICESCR (common article 1 of the two Covenants). The principle was also judicially approved in the Namibia, Western Sahara and East Timor throughout the judgments of the ICJ⁶⁹.

It is beyond doubt that UN initially recognized the right to external self-determination in a colonial context⁷⁰. But the legal ambiguity issue is whether this right exists after the end of the decolonization process. There are two main schools of thought that try to illuminate this question. The first is in line with the Cairo resolution of 1964 of the Organization of African Union⁷¹, now African Union (AU), that had a restrictive view of the right. OUA considered that the right of self determination is applicable to

⁶⁶ Antonio Cassese (1995) '*Self-determination of peoples: A legal reappraisal*' First edition, Cambridge University Press p 1.

⁶⁷ For a further analysis of the dual substance (political and legal) of the 'Self determination' see M Schoiswohl (2004) p 61.

⁶⁸ A.A. Idowu (2008) pp 44-45.

⁶⁹ Fernanda Fernandez Jankov, Vesna Ćorić (2008) p 12.

⁷⁰ See Mohamed Diriye Farah (2010) pp 13-15.

⁷¹ See the Cairo resolution of 1964 where OUA re-affirmed solemnly "the strict respect of all Member States of the Organization for the principle laid down in Article IV paragraph 3 of the Charter" of the O.A.U on respect for the frontiers existing at the time of the acquisition of independence. (http://www.au.int/en/sites/default/files/ASSEMBLY_EN_17_21_JULY_1964_ASSEMBLY_HEADS_STATE_GOVERNMENT_FIRST_ORDINARY_SESSION.pdf).

non-self-governing territories and peoples and that once a country obtained independence this right is neutralized⁷². This position is rather supported and by the International Court of Justice (I.C.J.), which in the Frontier Dispute case between Burkina Faso and Mali, limited the right to self-determination in the African colonial context⁷³.

The other school of thought adopts a broader interpretation of the right. It considers that self-determination is granted to all peoples regardless of whether they belong to a non-self governing territory or a fully independent State. It bases its reasoning a). to the two UN Covenants on Political and Civil Rights and on Social Economic Rights that provide in their first Article that all peoples have the right of self-determination. b). to the principle VIII of the Helsinki accord of 1975⁷⁴ according to which “*all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference.*” c) the OSCE⁷⁵ instruments: (i) The Copenhagen meeting of the OSCE on the Human Dimension (1990) (ii) The Charter of Paris (1991) and (iii) The Moscow Declaration (1991). d) and especially for Africa to the Article 20 of the African Charter of Human and Peoples’ Rights⁷⁶. This school of thought invokes the disintegration of the U.S.S.R, the splitting of Yugoslavia, the peaceful division of Czechoslovakia to conclude that these events are not isolated, ‘but part of a norm creating consensus of the right to democracy, human rights and the rule of law and as part of universal right of self-determination’⁷⁷.

I belong to the first school of theorists for the following reasons: a). it results from the historical context in which the 1 (2) of the UN Charter, the resolutions 1514 (XV), and (XV) as well as the 1970 Declaration on the Friendly relations and the UN Covenants simply aimed to stop the colonization and not to open the door to the secessionism. b). granting this right to all ethnicities would lead to perpetual conflicts and to a permanent reshaping of the borders which contradicts with the UN goal of maintenance of the peace and stability. c). the phenomenon of the creation of new states is not a prove of the existence of the right of secession but rather a facet of the existing states’ right to recognize⁷⁸ others d). The legal texts invoked by second school of thought have ambiguous legal binding force.

Another complex legal point is the delimitation of the beneficiary of such a right. I think that the position of the African Commission in the Gunme case illustrates in an appropriate manner the meaning of ‘people’ as a potential beneficiary under article 20 of the African Charter on Human and Peoples’ Rights,. Therefore, the Commission,

⁷² However, some deviations of the first school of thought exist see John Dugard (1993) p 173.

⁷³ <http://www.icj-cij.org/docket/index.php?sum=359&code=hvm&p1=3&p2=3&case=69&k=b3&p3=5>

⁷⁴ But the legal binding of the accord is contested see Antony D’Amato (1997) pp 136-138.

⁷⁵ All OSCE standards lack legally binding status see Gaetano Pentassuglia (2004) p 15.

⁷⁶ For the content of the art 20 see <http://www1.umn.edu/humanrts/instree/z1afchar.htm>

⁷⁷ See Idowu *op.cit* pp 48-52.

⁷⁸ For a deep analysis of the “declaratory” or the “constitutivist” nature of the State right to recognize others as well as for the political, legal and civil form of recognition see Robert D. Sloane (2002) pp 109-110, 115-120.

using the UNESCO's reasoning, stated that if a group has '*common historical tradition, a racial or ethnic identity, cultural homogeneity, linguistic unity religious and ideological affinities, territorial connection, and a common economic life, it may be considered to be a "people."* Such a group may also identify itself as a people by virtue of their consciousness that they are people'. In this sense the Commission qualified the population in Southern Cameroon "a people", as they gathered the greatest part of the characteristic suggested by UNESCO⁷⁹.

Furthermore, the right to Self-determination must be analyzed vis a vis the principle of the territorial integrity a complex notion, which is used in conjunction with other principles such as the those of 'state sovereignty'⁸⁰ 'the non-interference' in the internal affairs of other states, the 'international peace and stability', the 'territory acquisition' and the *Utis possidetis*⁸¹.

What is the notion of the territorial integrity? Territorial integrity is "the character attached to the territory of every state, which should not be subjected to any kind of grip aiming at subtracting it, durably or momentarily, from the authority of the state"⁸².

What are the legal foundations of the principle of the territorial integrity? First, the UN Charter (Article 2.4), that prohibits the use of force against the territorial integrity of a State. Second, the UN Charter (article 51), that recognizes the right of every state, in a self-defense situation, to safeguard its existence by the use of force. Article 51 of the UN Charter, that the ICJ interpreting is recognized that, "*It cannot lose sight of the fundamental right of every State to survival and then its right to self-defense, in accordance with Article 51 of the Charter, when its survival is at stake.*"⁸³. Third, the Covenant of the League of Nations (art 10), which stipulates that 'the members of the League undertake to respect and preserve as against external aggression the territoriality integrity and existing political independence of all members of the League. Especially, for Africa article 3 of the OAU Charter which stipulates that one of the origination's principles is to '*respect for the sovereignty and territorial integrity of each state and for its inalienable right to independent existence*'.

⁷⁹ See the case 266/03 : Kevin Mgwanga Gunme et al / Cameroon <http://caselaw.ihrda.org/doc/266.03/view/> para 170.

⁸⁰ Territorial integrity emerged in order to enable the state to exert its sovereignty, to ensure its own survival, to preserve the unity /completeness of its territory and finally to represent the people see Abdelhamid El Ouali, (2006) pp 635-646.

⁸¹ Uti Possidetis is defined by Black's Law Dictionary as 'the doctrine that old administrative boundaries will become international boundaries when a political subdivision achieves independence'. (for a deep analysis of this principle see Paul R. Hensel, Michael E. Allison and Ahmed Khanan (2004) pp 2-4). This principle as the territorial integrity aimed to protect the boundaries of existing states from fragmentation during the decolonization. However, it is contestable whether the Uti possidetis is a principle of international law of general applicability ie it exists beyond the context of Latin America and Africa (for the fierce criticism against the Badinter Commission conclusions that applied this principle to the case of Yugoslavia see P Radan (2002) pp 204-243 and Fernanda Fernandez Jankov, Vesna Ćorić *op.cit* pp 4-25).

⁸² Jean Salmon (2001) p. 592.

⁸³ ICJ (1996) para. 96.

Finally, the beneficiaries of the right of the territorial integrity are the existing states⁸⁴

But does the right of the territorial integrity prevail over the self determination right? The UN resolutions of 1514 and 1541 and the 1970 Declaration concerning Friendly Relations on Principles of International Law Concerning Friendly Relations and Co-operation among States and the Vienna Declaration and Program for Action clarify that self-determination does not mean the violation of the territorial integrity of a State. The Declaration concerning Friendly Relations stated that: *'Nothing in the forgoing paragraphs, shall be construed as authorizing or encouraging any action, which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belong to the territory without distinction as to race, creed or color'*⁸⁵. It results that these instruments present territorial integrity as a limitation clause to self-determination. Therefore, many scholars refer to this limitation as 'the saving clause' meaning that territorial integrity is an exception to the general rule of self-determination⁸⁶.

However, the AU practice in many cases contradicts the above conclusion as well its Cairo Declaration of 1964. Therefore, while in the cases of Biafra, Katangese people and Gunme the AU did not adopt the secessionist claims, it approved them in the Western-Sahara and Eritrea cases in 1993 and approved the secession of South Sudan from the North⁸⁷.

From the above cases I will focus on the Eritrean one since Eritrea constituted part of Ethiopia and therefore it can offer lessons for the Ogaden issue. The AU recognition of the right of Eritrea to secede is problematic for the following reasons. First, Eritrea was federated to Eritrea after the 1949 UN decision, a legal text that approved the Ethiopia's subsequent full annexation of Eritrea and therefore made the Eritrea's right to secede contestable⁸⁸. Second, the AU argument that the Eritrean battle was against colonialism could not be sustainable as, in that case, Ethiopia should be considered as a colonial state, position not adopted by the AU. Finally, the AU argument that Eritrea did not exercise its right to self-determination since the Italian colonialism, is the only one that could be reasonable⁸⁹.

My conclusions for the Ogaden case, after the above theoretical analysis and the examination of the Eritrean case, are the following. According to the first school of

⁸⁴ Cedric Ryngaert and Christine Griffioen (2009) p 577.

⁸⁵ <http://www.law.hku.hk/conlawhk/conlaw/outline/Outline4/2625.htm..>

⁸⁶ Mohamed Diriye Farah *op.cit* pp 25-26.

⁸⁷ See Dr Solomon A. Dersso's interpretation of the AU stance towards the above cases which concludes that *'the case of South Sudan clearly establishes that respect for the territorial integrity of African states and the principle of uti possidetis no longer absolute and Unconditional'*. See Dr Solomon A. Dersso (2012) pp 1-8.

⁸⁸ See M Haile (1994) pp 486-487,497.

⁸⁹ See T Negash (1997) p 164.

thought, whose the reasoning I share, the right to secede could not be granted to the ONLF⁹⁰ since this right does not exist beyond the colonial context and Ethiopia was the only State with Liberia not colonized in 1945. However, if this right exists and in non colonial cases, as the second school of thought could argue, it could be attributed to the Ogadeni since they rather fulfill the African Commission' and UNESCO's criteria of 'people' as they constitute the Somali one⁹¹. But in any case this right could not prevail over the territorial integrity of Ethiopia. Finally, the AU stance and reasoning in the above mentioned African cases and especially in the Eritrea is problematic and cannot provide a constant argument for the existence of the right to self determination that could be granted to Ogadeni.

But while the WPF food blockade is mainly a mean aiming to abort the realization of a right 'to self determination' of Ogadeni, it has implications and to the regional field

b).The regional dimension: the manipulation of the WPF food aid as a tool against the network of the Ogaden National Liberation Front, Eritrea and the Al Qaeda in the Horn of Africa.

The manipulation of food by the Ethiopian state, to the extent that weakens the ONLF military and political capabilities, contributes to the stabilization of the Horn Africa. That occurs because the ONLF is integrated in a group in which enter the Al-Shabaab, the Al Qaeda's branch in Somalia⁹², and other armed groups, that operate in Djibouti, Ethiopia, Somalia Sudan and Kenya with the goal to destabilize the Horn of Africa⁹³. This alliance is directed by Eritrea⁹⁴.

⁹⁰ The ONLF vindicates the 'right of self-determination' based on the UN Charter and the GA resolutions for the elimination of colonialism (see the ONLF' official site 'http://onlf.org/?page_id=14'). However, initially the ONLF, when it had the administration of the Ogaden, advocated self-determination, as a respective right to secede based on the article 39(4) of the Ethiopian Constitution (see Andrei Kreptul (2004) p 73). But the consequences of this option were that the ONLF was ousted from power by the EPRDF in mid-1994 (see Tobias Hagmann, Benedikt Korf (2012) *op.cit* p 10), and the region became a field of bloody battles between the Ethiopian army and the ONLF' (see Ogaden Human Rights Committee (2007) p 14). That bad for the ONLF precedent in combination with the absence of any other successful example of secession through the constitutional channel (see H.E. Kassa Tekleberhan in Alem Habtu (2010) pp 11-12) could explain why the ONLF has a fear to evoke the 39 of the Ethiopian Constitution and invokes the ambiguous right of self determination based on the international law.

⁹¹ I.M. Lewis considers that despite the fact that there are many clans in the Ogaden, they have been increasingly absorbed in the wider Somali society and therefore constitute ethnically the Somali group see Lewis quoted by Kefale, (2006) pp 144,156. According also to the 'Unrepresented Nations and Peoples Organization' around 95% of the entire population in the Ogaden are ethnically Somalis (<http://www.unpo.org/members/10714>).

⁹² <http://edition.cnn.com/2012/02/09/world/africa/somalia-shabaab-qaeda/>

⁹³ See Congressional Research Service (2012) pp 5,22. See also <http://www.theafricareport.com/201107285168012/news-analysis/ethiopia-and-un-accuse-eritrea-of-backing-al-shabaab.html>

⁹⁴ According to the SC the Eritrean authorities' support for such groups can only be understood in the context of its unresolved border dispute with Ethiopia see SC (2011) p 13. However, some analysts consider that the real cause of the Eritrean support to armed groups in Ethiopia and in the broader region of the Horn of Africa are other political and economic interests, beyond the border issue, that divide Eritrea and Eritrea see Temesgen A. Gidey (2012) pp 9-10. What is quite clear is that this

More concretely, Eritrea since the end of the Ethiopian-Eritrean war in 2000 trains provides military and financial support to the ONLF as well to other militias including the Somali group the Al-Shabaab⁹⁵ and coordinates across borders military operations in the Horn of Africa⁹⁶.

It results the paradox that the manipulation of food by Ethiopia while it violates the international law, it contributes to the dissolution of the terrorist network in the horn of Africa. Therefore it has not only an internal but also a regional dimension.

But the manipulation of the WFP food aid has and a global dimension since it helps to the consolidation of the power of the Ethiopian regime and therefore the stronger this regime is the better can contribute to the satisfaction of the interests of its allies ie the US and China and the EU. In the following sub-section i will attempt to analyze why the cooperation of the Ethiopian state is important for these international actors and finally how the latter support the Ethiopian State in the WFP food blockade with their foreign policy in the framework of the UN and beyond that.

c). The global dimension: the WFP food assistance' blockade as a reinforcing factor of the US, Chinese and EU interests

The US, Chinese and the EU needs a powerful and stable Ethiopian regime in order to realize their plans and ambitions in issues such as the 'anti-terrorism' and

alliance is not based on religious incentives since the dictator of Eritrea, that cooperates *inter alia* with the Islamist Al-Qaeda is 'Christian'(<http://frontpagemag.com/2011/ryan-mauro/al-qaeda%E2%80%99s-%E2%80%9CChristian%E2%80%9D-dictator-ally/>), while the ONLF is rather a nationalist organization motivated by nationalists and not religious sentiments (http://onlf.org/?page_id=18).

⁹⁵ At this point a specific reference to the role of the Somali Islamic groups is needed in order to enlighten the regional impact of the manipulation of WFP food in the Horn of Africa. The Al-Shabaab is an off-shoot of Somalia's Islamic Courts Union (UIC), an Islamic organization that was vindicating the power against the Somali Transitional Federal Government (TFG) in Somalia and splintered into smaller factions in 2006 (see Abdisaid M. Ali (2008). Eritrea was providing munitions also to the UIC and it was orchestrating the latter's military cooperation with the ONLF (see SC (2011) *op.cit.* p 78) . From the other side Ethiopia was considering ONLF and UIC as terrorists and had established an alliance with the TFG. In that context in 2006 Ethiopia intervened in Somalia to back the TFG in a heavy fighting with the UIC and consequently, the latter called for jihad against Ethiopia (<http://www.guardian.co.uk/world/2006/dec/24/ethiopia>). Finally, Ethiopia withdrew from Somalia in 2007 after the Djibouti peace agreement signed by the UIC, transformed to Alliance for the Re-liberation, and by the TFG. Thereby, to the extent that the network Eritrea, ONLF and the Al-Shabaab continues stepping outside order and the security to the Horn of Africa After, it is understandable why the food aid blockade in the Ogaden reinforces the stability in the Horn of Africa.

⁹⁶ This is the conclusion of the SC after a detailed evaluation of the relative facts reported to it by the Monitoring Group on Somalia and Eritrea. Eritrea by this policy in Ethiopia and in the Horn of Africa violates the SC resolutions 1844 (2008) and 1907 (2009), which imposed sanctions on it, including a general and complete arms embargo (on both imports and exports) and prohibited Eritrean support for armed groups throughout the region. Furthermore, Eritrea, by applying this policy, breaches the principle of non interference in Ethiopia and Somalia see SC (2011) *op.cit* pp 65-88. However, Eritrea denies its support to armed group (see <http://www.rnw.nl/africa/article/eritrea-denies-support-al-shabaab>).

‘economy’, which have become internationalized⁹⁷. Therefore, for the US, Ethiopia is the stable ally in the area⁹⁸ in the battle against ‘terrorism’⁹⁹ that it is exerted by the above explained scheme of alliances Eritrea, ONLF, Al-Qaeda¹⁰⁰. In that context after the EPRDF’s rise to power in 1991, Ethiopia is seen by the US as a basic parameter of stability in the Horn of Africa¹⁰¹. But besides that, another reason for which the US aims to keep close ties with Ethiopia is the latter’s geographic location. Sitting astride the route to the Mediterranean through Suez, the Gulf of Aden and the Persian Gulf Ethiopia has a very significant geographic position over international maritime traffic in the Red Sea, which mostly consists of oil from the Middle East¹⁰², hence the US interest for the control of the area. Finally, Ethiopia is considered by the US and its ally, Israel, as a part of ‘the alliance of the periphery’ against the neighboring Arab states¹⁰³.

China has in Ethiopia very important economic and political interests. First, China seeks in Ethiopia to secure sources of raw materials for Chinese industries, establishing markets for Chinese goods and services. Therefore, for China, Ethiopia is the place where Chinese petroleum company Zhongyuan Exploration Bureau is currently drilling in the Gambella Basin in Western Ethiopia and in the Ogaden. Furthermore, China is an important and growing economic partner of Ethiopia and Africa. Chinese-Ethiopian trade has increased 17 percent since 2006, to \$660 million, and Chinese investment has reached \$345million from just \$10 million in 2004. Chinese companies are involved in economic development and infrastructure initiatives, including Ethiopia’s first private industrial zone, hydropower projects,

⁹⁷ For a deeper analysis of the ‘internationalization’ of the security matters see Nilüfer Karacasulu (2006) pp 1-17. While for the globalization of foreign affairs see Gao Shangquan (2000) pp 1-8. See also Michael D. Intriligator (2003) pp 1-18.

⁹⁸ In fact, the US has replaced the main ally in Ethiopia the USSR, that was cooperated with the Marxist-Leninist regime the Derg, known also as the Red Terror, during the latter’s ruling from 1975 to 1987. For the Russian support to Ethiopia see Christopher Clapham, George Philip (1985) pp 265-267, while for a more detailed analysis of the Russian assistance to Ethiopia during its war with Somalia between 1977-1978 see Kenneth G. Weiss (1980) pp 11-37.

⁹⁹ http://www.nytimes.com/2007/07/21/world/africa/21iht22ethiopia.6763639.html?pagewanted=all&_r=0

¹⁰⁰ In this context the US, in an effort to dismantle the network Eritrea, ARS, ONLF, Al-Qaeda, provides *inter alia* military and financial assistance and to the Alliance for the Restoration of Peace and Counter-Terrorism (ARPCT), a group of Mogadishu warlords cooperating with CIA, http://www.nytimes.com/2006/06/06/world/africa/06somalia.html?_r=0.

¹⁰¹ Terrence Lyons (2011) pp 9-10. For instance, in 2007 FBI & CIA Interrogated Detainees in Secret Ethiopian Jails that were characterized as the ‘Outsourced Guantanamo’ http://www.democracynow.org/2007/4/5/outsourced_guantanamo_fbi_cia_interrogating_detainees. However, Ethiopia will probably lose its weight in the US war against terrorism if the US would pass the responsibility for tackling al-Qaida from the Defence department to the police in an effort to reduce the US antiterrorist activities to the American territory, see relatively the Obama counsel’s, Jeh Johnson’s, recent statements (<http://www.guardian.co.uk/world/2012/nov/30/us-war-against-al-qaida>).

¹⁰² See Srinivas Chirumamilla (2011) p 186. Some analysts go even further and see the US support of Ethiopia as a part of a larger puzzle in which the US tries to expand NATO missions in Africa from Chad and Sudan to the Horn of Africa (see <http://www.globalresearch.ca/ethiopia-has-become-an-anglo-american-proxy-in-the-horn-of-africa/4446>).

¹⁰³ EU Institute for security studies (2009) p 168.

road construction, and other sectors¹⁰⁴. Second, China needs Ethiopia in order to create political and diplomatic alliances at the UN and the AU that has its headquarters in Addis Ababa¹⁰⁵.

For the EU, Ethiopia, as well as the neighboring Somali State, is a basic part of the security puzzle¹⁰⁶. Besides the political considerations, the EU has vital economic interests in Ethiopia since the latter belongs to and the African, Caribbean and Pacific (ACP) group of developing states that has established close economic ties with the EU¹⁰⁷.

But how do all these international actors support the WFP blockade? In the framework of the UN, the US, China and the EU¹⁰⁸ provide support tacitly to the manipulation of WFP's food aid by Ethiopia. More specifically, the US mission to the UN not only has not asked for measures against Ethiopia from the part of the UN but it argued that the WFP must continue to deliver lifesaving emergency aid in Ethiopia¹⁰⁹. The total absence of any official statement about the abuses on the WFP aid in the Ogaden comes from the permanent mission of China to the UN¹¹⁰, while the EU delegation to the UN when it refers to the humanitarian crisis in Ethiopia avoids any reference to the Ogaden emphasizing only in the EU contribution to the

¹⁰⁴ See HRW (2008) *op.cit* p 124. See also Mary-Françoise Renard (2011) p 20. However, in a globalized economy the Chinese plans in Ethiopia, especially in the area of energy, have provoked rigorous European reactions see Ting Wai (2008) p 205. Nevertheless, some analysts consider that there is not any antagonism between the EU and China in Ethiopia, since the latter for the EU is an aid recipient while for China an economic and political ally and therefore Chinese financial flows to Ethiopia are complementary to European aid see Christine Hackenesch (2011) pp 6-27.

¹⁰⁵ See African Forum and Network on Debt and Development (2011) p 17.

¹⁰⁶ For an ampler analysis of the EU regional security policy see Istituto Affari Internazionali (IAI), Swedish Institute of International Affairs (UI), Foundation pour la Recherche Stratégique (FRS), Center for Strategic and International Studies (CSIS) (2011) p 218. For the broader cooperation of the EU and AU in the security field see the '*Joint Africa EU Strategy Action Plan 2011-2013*' p 2.

¹⁰⁷ The relationship between the EU and Africa States has started in the framework of the Part IV of the 1957 Treaty of Rome, had continued with the two successive Yaoundé Conventions (1963-9 and 1969-74) and finally with the Lomé and Cotonou Agreements. For the economic dimensions of these agreements see Alex Nunn and Sophia Price (2004) pp 203-230. Moreover, it has to be underlined that for the EU, Ethiopia is one of the major trading partners both in terms of export and imports. Additionally, the EU has engaged in a cooperation with the Ethiopian State in the infrastructure sector see the official site of the European external action service (http://eeas.europa.eu/delegations/ethiopia/eu_ethiopia/political_relations/index_en.htm).

¹⁰⁸ The EU is not a member of the UN with a right to vote (the http://eeas.europa.eu/delegations/un_geneva/eu_un_geneva/index_en.htm) but it has obtained the super-observer status to the UN on 03 My 2011 (<http://www.telegraph.co.uk/news/worldnews/europe/eu/8490946/EU-wins-super-observer-status-at-UN.html>). Therefore, the EU which could be used this Status at least in order to exert pressures against the food blockade. The same status of permanent observer has the EU, through the European Commission's department, the European Community Humanitarian Aid Office the (ECHO) has since 1993 in the WFP (http://eeas.europa.eu/delegations/rome/eu_united_nations/work_with_3_un_agencies_rome/index_en.htm).

¹⁰⁹ See the Remarks by Robert Marks, Advisor, U.S. Mission to the United Nations, to the UN General Assembly's Second Committee (Economic & Financial Affairs) on Agricultural Development and Food Security (<http://usun.state.gov/briefing/statements/2011/176131.htm>)

¹¹⁰ See the official site of the Chinese delegation to the UN (<http://www.china-un.org/eng/>)

WFP for Ethiopia¹¹¹.

View to this passive political stance of the three international actors in the UN, it is not bizarre that the UN, in whose the SC¹¹² the US and China are permanent members, is limited mainly in making recommendations to the Ethiopian Government¹¹³. Furthermore, the WFP, in whose the decision-making the US, China and the EU have an very significant role as its major donors¹¹⁴, is limited to state only difficulties of minor importance in the implement of the food aid in the Ogaden avoiding any dialogue about the manipulation of its food assistance¹¹⁵. It is obvious that this UN and WFP passive stance, as a result of the political option of the US, China and the EU, cannot lead to the lifting of the blockade by the Ethiopian authorities.

But beyond the scope of the UN, the US and China, remain also silent while the EU has expressed only sporadic public concerns over the humanitarian situation in the Ogaden¹¹⁶. More concretely, the US avoids any declaration or action that could press the Ethiopian State to remove the food blockade. For instance, at a conference held in September 2007 in Ethiopia, a US diplomat described the allegations of abuses in Somali Region as “unsubstantiated.” Furthermore, while the US Ambassador to Ethiopia has privately raised concerns over human rights abuses, publicly the US embassy in Addis Ababa downplayed these concerns in the face of a worsening

¹¹¹ For the relative EU references to Ethiopia see the official site of the EU http://www.eu-un.europa.eu/articles/en/article_12658_en.htm, http://www.eu-un.europa.eu/articles/en/article_11584_en.htm.

¹¹² Although the SC institutionally has no say in the decision making of the WFP, since the latter reports to the UN Economic and Social Council (ECOSOC) (see UN (2007) p 10), it can condemn or not an act that affects the WFP activities. For an analysis on this matter see the remarks of Michael Teng on the non condemnation by the SC of the Israeli killings of several UN employees and the destruction of the WFP warehouse in 2002 due to a US veto Michael Teng (2003) p 11.

¹¹³ However, the SC is aware of the impact of the food blockade in the Ogaden since 2007 when John Holmes, the highest UN official responsible for humanitarian affairs in his visit in the region, warned it that “*already chronic food insecurity could give way to real famine conditions*” see HRW (2008) *op.cit.* p 121.

¹¹⁴ In the 2011 WFP list of contributors US is cited first, China twentieth, but first in the aid for Ethiopia and the EU fourth see <http://www.wfp.org/about/donors/year/2011>). For the basic role of the donors in the decision-making of the WFP see James Darcy, Stephen Anderson and Nisar Majid (2007) pp 19-23. But in the case of the Ogaden, US, China and EU not only did not exert any pressure in the WFP, in order for the latter to ask from the Ethiopian authorities a removal of the relief blockade, but engaged in a race in for the largest contribution in the WFP’ food assistance in Ethiopia. For the US stance see <http://ethiopia.usembassy.gov/pr5707.htm>, for this of China http://www.chinadaily.com.cn/cndy/2011-10/17/content_13909972.htm while for this of EU, which has in the WFP, the status of permanent observer, through the European Commission's department, the European Community Humanitarian Aid Office the (ECHO) since 1993 (http://eeas.europa.eu/delegations/rome/eu_united_nations/work_with_3_un_agencies_rome/index_en.htm), see (<https://www.wfp.org/news/news-release/major-echo-donation-support-emergency-assistance-ethiopia>). Especially, for the EU providing assistance, even if through the WFP channel, to a recipient country which does not behave in accordance with the international humanitarian and human rights law violates the ‘legal’ conditionality that governs the EU humanitarian policy, see Humanitarian Policy Group (2000) pp 37-40.

¹¹⁵ See the references of the WFP about the Ogaden in the WFP official site http://www.wfp.org/search/apachesolr_search/ogaden

¹¹⁶ See HRW (2008) *op.cit* p 121

humanitarian situation¹¹⁷.

China has adopted a similar tactic of silent concealment of the WFP blockade in its foreign policy. In that context it not bizarre that the only reference that it has been made about the Ogaden by the Embassy of China in Addis Ababa, as well as by the Chinese ministry of foreign affairs, is about its energy resources and its investment opportunities¹¹⁸. Thereby, in November 2007 Chinese ambassador to Ethiopia when indicating that Chinese oil workers would return after the ONLF attack in the Ogaden did not make any comment on the allegations of Ethiopian abuses on the WFP assistance. China justifies its silence evoking the principle of “non-interference” to the internal affairs of other countries. But in reality Chinese support of Ethiopia is an integral part of Chinese foreign policy and is used to further a diverse range of foreign policy objectives as they were explained above¹¹⁹.

The same passive stance over the manipulation of the WFP’s food aid is followed by the EU¹²⁰. For instance, a EU delegation when visiting the Somali Region in November 2007, as well as the EU Commission when increasing its humanitarian aid did not publicly make any comment on the manipulation of food¹²¹. The EU remained also silent in 2010 before the warnings of the coalition of the Ogaden Civil Societies addressed to the EU Parliament that Ethiopia uses the WFP’s food aid as weapon of War¹²². Finally, the EU parliament failed repeatedly to act on reports of horrific human rights abuses while the EU Commission allegedly tried to water down an official report, which detailed major concerns about the actions of the Ethiopian government¹²³.

It results that the stance of the three actors on the WFP’s blockade is similar and consists on a tacit support¹²⁴ of the Ethiopian policy on the matter as a consequence of

¹¹⁷ See HRW (2008) *op.cit* p 122. This is the official US position despite the fact that in their US 2008 report acknowledges that ‘Only 12 percent of food aid reached beneficiaries. Improvements in food aid deliveries allowed relief to reach primary destination points, but distribution to secondary towns, rural areas, and final beneficiaries remained limited’ see US State Department (2008).

¹¹⁸ See the official site of the Chinese Embassy (<http://et.china-embassy.org/eng/asebyxx/tzjh/t704987.htm>) and of the Chinese ministry of foreign affairs (<http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t981305.htm>).

¹¹⁹ See HRW (2008) *op.cit* p 123.

¹²⁰ The EU is aware at least that the movements of the humanitarian agencies in the Ogaden are highly restricted and that attacks occur against them see the EU Commission’s working paper accompanying the document ‘Report from the Commission to the European Parliament and the Council. Annual report on the European Union’s Humanitarian Aid and Civil Protection Policies and their Implementation in 2010. <http://register.consilium.europa.eu/pdf/en/11/st11/st11947-ad01.en11.pdf> p 28.

¹²¹ See HRW (2008) *op.cit* p 123.

¹²² This Coalition’s report was very well-founded based on a UK Channel Four investigation on the Ogaden according to which ‘...the WFP says in a confidential alert to donors that it is receiving ‘increasing reports of hunger-related mortality’ ... The WFP has told donors that it blames Ethiopia’s ‘delays in recognizing the extent of need’ for causing the rapid depletion of existing food stocks..... the army has withheld food from villages in the Ogaden deliberately as part of a ‘scorched earth’ policy against separatist rebels of the ONLF...’. See Coalition of Ogaden Civil Societies (2010) p 15.

¹²³ <http://www.thebureauinvestigates.com/2011/08/06/revealed-britain-and-eu-increase-aid-to-ethiopia-despite-serious-human-rights-abuses/>

¹²⁴ In that context it is not surprising that the US, China and the EU have not condemned human rights abuses related to the WFP’s food aid abuses in the Somali Region. Instead they systematically ignore

their goal to obtain the cooperation of the Ethiopian regime and therefore to realize their plans, as they were above explained. Consequently, the food blockade has not only internal and regional but also international dimensions, as it is stated in my second hypothesis.

In order to have a comparative view of the current blockade on WFP aid in the following paragraphs I will try to detect its similarities or differences with other blockades previously applied by the Ethiopian Government or by other countries.

4. PART 3

A comparative analysis of the WFP'S food aid blockade strategy in Ogaden: a). A comparison of the Ethiopian food control tactics against the Ogaden National Liberation Front in 2007-2012 and the Eritrean and Tigrayan Peoples Liberation Fronts in 1984-1988.

First the WFP food blockade, applied by the EPRDF against the ONLF in 2007-2012, has similarities with this that was applied by the Derg in 1984-1988, against two rebel groups, the Eritrean Peoples Liberation Front (EPLF) and the Tigrayan People's Liberation Front (TPLF)¹²⁵ in a non international armed conflict¹²⁶.

In the latter conflict the Derg, *inter alia*¹²⁷ manipulated the WFP external relief in order to achieve their military and political goals. Thereby, the Derg followed a starvation policy which included a). manipulation of all humanitarian aid as a weapon

the HRW recommendations to them, such as to publicly urge the Ethiopian government, to conduct transparent investigation into abuses, to permit access to the region by humanitarian agencies, to support independent nutritional assessments, to monitor the food distribution and to held accountable all the officials implicated in human rights, (HRW (2008) *op.cit* pp 120, 127,128), that could facilitate the implement of the WFP food aid. Furthermore, it is not strange that the UN Commissioner's report on the genocide in the Ogaden remains 'under lock and key in her office under her direct order' see Thomas C Mountain's article on 23th August 2012 '*Accomplice in Genocide; UN Human Rights Commissioner Navi Pillay*' <http://www.tesfanews.net/archives/9170>

¹²⁵ In 1984-1988 the Derg intensified the fight against the insurgency. However, in 1988 the Derg defeated in the military plan by the rebels in Eritrea and Tigray see Thomas P. Ofcansky, LaVerle Berry (2002) '*Ethiopia, a country study*' http://www.munseys.com/diskone/ethiop.htm#1_0_41

¹²⁶ The type of this conflict was also a NIAC, as in the case of the ONLF, since these movements involved in intense battles against the Dergm, were well organized groups and tried to achieve the Eritrean and Tigrayan self-determination See John Young (1996) p 112. However, until today from the above separatists, the right to self-determination was recognized by the international community only to the Eritreans that won recognition in 1993 through a UN-sponsored referendum see Daniel Connell (2011) p 1.

¹²⁷ The Derg applied also warfare techniques that triggered environmental degradation, Ethiopian dependency on the government and launched an "economic war" similar to this applied by the EPRDF, in order to eliminate the locals' support to separatists (for a detailed analysis of these economic measures see Kristin A. Urbach Kristin (2006) pp 34-35. Furthermore, it implemented a forced resettlement and villagization program in the south-east, the west and Eritrea, but not in Tigray, indiscriminate violence against the civilians and fostered divisions within the insurgent movements see Africa Watch Report (1991) pp 3,4.

of war. More specifically, the supplies were used *inter alia* as an incentive for hungry Ethiopians to join government militias b) distortion of the distribution of the humanitarian aid. Thereby, the relief was allowed by the Derg to be distributed to Ethiopians only through the channels of the Relief and Rehabilitation Commission (RRC), that became a Derg's instrument of war since it had established relief centers that gradually transformed to prisons for those who entered the centers seeking food¹²⁸ c) severe restrictions on the relief agents movement since the threat of air strikes kept food aid convoys immobilized¹²⁹. It results that the manipulation of the WFP relief by the Derg, with the exception of the attacks on the UN employees that are not reported as in the case of Ogaden, where also they are isolated events, have the almost the same character with those applied by the EPRDF.

The same passive attitude, as in the case of EPRDF, kept the UN, the WFP, the US, China and the European Community and towards the Derg. These actors also supported the Ethiopian regime in 1984-1988 in the WFP food blockade. Therefore, the UN and the WFP decided not only to continue distributing the relief to the Derg but even increased it considerably¹³⁰, despite the Dergs' abuses of the food assistance¹³¹ that indicates that the US¹³² and China¹³³ as in the case of the Ogaden did not oppose to the distribution of the aid in order to satisfy their own interests. Moreover the UN avoided to condemn the food blockade and charge the Derg with crimes against humanity¹³⁴ as in the case of the EPRDF. In the same manner the European Community, that was at this time observer even if with no vote right in the UN¹³⁵, increased its support to the regime providing *inter alia* more relief¹³⁶.

From a legal point of view the manipulation of the relief by the Derg, constituted for some analysts a violation of the art 25 of the UDHR ie of the right to food¹³⁷, while for others, whose opinion I share that, a clear violation on the international

¹²⁸ see Kristin A. Urbach *op.cit* . pp 36-37.

¹²⁹ See Joanna Macrae & Anthony B. Zwi (1992) p 306.

¹³⁰ see Kristin A. Urbach *op.cit* 37.

¹³¹ The UN was aware of the diversion of the relief to the military see Africa Report *op.cit*. p 188.

¹³² The US, during the Derg ruling had not any type of cooperation with the Ethiopian regime except for the food aid domain, due to the adherence of the latter to Marxism-Leninism (<http://ethiopia.usaid.gov/history-usaid-involvement-ethiopia>). However, the US continued providing, beyond its participation to the WFP' program, relief through its agency the United States Agency for International Development (USAID) hoping to improve its relationship with the Ethiopian regime see USAID (1998) p 14.

¹³³ China had tightened its relationship with the Derg since 1977 when the latter launched its new policy known as 'proletarian internationalism' which also included a close cooperation with the Soviet Union see David H. Shinn, Thomas P. Ofcansky (2004) p 171.

¹³⁴ See David Marcus *op.cit*. p 280.

¹³⁵ http://www.eu-un.europa.eu/articles/en/article_458_en.htm

¹³⁶ At this time the EC was giving substantial aid to the Derg without applying any kind of conditionality as in the Ogaden case (Africa Report *op.cit* pp 8,176,367).

¹³⁷ See Kristin A. Urbach *op.cit* . p 40.

humanitarian law¹³⁸ as in the case of the Ogaden. To justify the manipulation of food the Derg labeled TPLF and EPLF as well all its opponents “anarchists” and “bandits” (ser’ate albegna and wonbede)¹³⁹, while the EPRDF invoked the anti-terrorism argument¹⁴⁰.

It results that Ethiopia presents a consistency over the time in its treatment of the relief that it was clearly expressed by an Ethiopian foreign minister under the phrase “food is a major element in our strategy against the secessionists.”¹⁴¹

But the WFP food blockade in the Ogaden has common elements with some slight differences and with this that has been implemented by the Israeli Government in Gaza since 2007.

b). A comparative overview of the Ogaden and Gaza WFR’S food aid blockade in 2007-2012.

The Gaza blockade¹⁴² occurs in a conflict with the Hamas government of Palestinians that has become internationalized¹⁴³. But what are the similarities and the differences of the two blockades? The Israeli blockade on the WFP and its sister organization, the

¹³⁸ See David Marcus *op.cit.* p 258.

¹³⁹ See Tobias Hagmann, Benedikt Korf *op.cit.* (2012) p 13

¹⁴⁰ <http://www.afjn.org/focus-campaigns/other/other-continental-issues/80-democracy-and-governance/874-the-ogaden-crisis-the-horn-of-africas-invisible-humanitarian-disaster.html>

¹⁴¹ David A Korn (1986) p 137. Haile Selassie, who ruled Ethiopia as Emperor from 1930 to 1974, also used famine in 1973-1974 against the peasants of Wollo Province see Harry Cleaver (1977).

¹⁴² Israel imposed an almost full closure on goods and movement of people, including severe restrictions on the WFP food assistance in the Gaza following Hamas’ takeover of Gaza in June 2007. This blockade has caused an enormous negative humanitarian impact despite the Israel’s announcement on 20 June 2010 that it eases the blockade see WFP (2010) pp 5, 8,44. However, the last development is that on 21 November 2012 the WFP begun to redistribute its food Assistance in Gaza (<http://arabiangazette.com/wfp-distributes-food-assistance-gaza/>).

¹⁴³ This is the conclusion of the Israeli Supreme Court based on two grounds: the existing context of the occupation and the cross-border nature of the confrontation UN see UN Human Rights Council (2009) p 87 (known as the ‘Goldstone report’). The same conclusion reach analysts see Elizabeth Wilmschurst see *op.cit.* p 301-305. Finally, after the UN implicit recognition of sovereign State for the Palestinians on 29 November 2012 is quite clear in my view that the Gaza conflict has become internationalized (<http://www.reuters.com/article/2012/11/29/us-palestinians-statehood-idUSBRE8AR0EG20121129>). But despite the fact that the ONLF battle occurs in an internal conflict the final goal of both, the ONLF and the Hamas Government, is common ie to get independence (<http://english.alarabiya.net/articles/2012/07/31/229595.html>). However, the Ogadenenis’ right to self-determination is not recognized by the UN what is for the Palestinians Except (see *inter alia* the UN General Assembly (GA) resolution of the 29 November 2012 and *inter alia* the recent GA/11198/2011 the GA3236/1974. The right of the Palestinian people to self-determination has also been affirmed by the ICJ (See paragraph 118 of Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory <http://www.icj-cij.org/docket/files/131/1671.pdf>. See also De Waart, Paul (2005) pp. 467–487) what it did not happen in the case of the ONLF.

UN Relief and Works Agency for Palestine Refugees (UNRWA) food assistance¹⁴⁴ has taken the following forms: a). limitations and restrictions on the delivery of humanitarian assistance, including blockade on aid convoys and commercial food deliveries that has led to a shortage of basic foods for the human nutrition, therefore to a soaring of food products and in some periods suspension of the UN food assistance programs b). Absence of safe conditions in Gaza for the WFP staff to work normally but also airstrikes to the UNRWA workers, trucks and buildings, resulting in deaths and injuries in some cases¹⁴⁵.

It results that as in the case of the Ogaden the Israeli food blockade encompasses obstacles to the movement of the WFP agencies, to the distribution of food and attacks to the WFP. The only difference between the two cases is that in the Gaza, in contrast with the Ogaden, there is not a manipulation of food as a war mean, since Israel has all the military arsenal to impose its political will and thereby it does not need the manipulation of food to defeat Hamas.

The UN, the US, China and the EU support the Israel government on the WFP' food aid blockade urging only verbally Israel to end the blockade, which do not even do in the Ogaden case¹⁴⁶. It follows that neither the Ogaden nor the Gaza blockade has been condemned by the UN but in the latter case the UN reacted more actively than in the former albeit only with declarations and statements¹⁴⁷.

¹⁴⁴ Although the majority of the Israeli measures against the UN relief concern more the UNRWA than the WFP here are jointly examined since the latter UN agencies have launched joint actions to address the food security in the occupied Palestinian territories and therefore a blow to one of them has immediate impact on their common emergency programs. For the close cooperation of the UNRWA and WFP see UNICEF, WFP, UNRWA (2010) pp 5,11,12,17. It has to be noticed that the Israeli blockade, as the Ethiopian one, is combined with a series of very strict internal economic measures, in order to bludgeon the Hamas government and the Palestinian supporters, it see WFP (2010) *op.cit* p 5-8.

¹⁴⁵ For a more detailed analysis of the impact of the Israeli blockade on UN humanitarian assistance see the Goldstone report *op.cit* pp 358-350. See also <http://www.wfp.org/news/news-release/wfp-warns-food-running-out-blockaded-gaza-strip>

¹⁴⁶ The UN, the US, the EU, as well as Russia ie the diplomatic Quartet, have only called for an end to the blockade (<http://www.un.org/apps/news/story.asp?NewsID=42213&Cr=Gaza&Cr1#.UKpYO-Qz264>). In the same line, the Chinese representative to the UN Security Council WANG MIN only stated that 'In Gaza, all resolutions must be implemented and the blockade lifted to alleviate the humanitarian situation' see SC/10727/25-7-2012 <https://www.un.org/News/Press/docs/2012/sc10727.doc.htm>

¹⁴⁷ Therefore, on 24 January 2008, the UN Human Rights Council called Israel to permit the supply of food, fuel, and medicine, and to reopen the Gaza borders (<http://www.unhchr.ch/huricane/hurricane.nsf/view01/7A7B2B76C0F3C3F6C12573DA00529096?openDocument>). But further proceedings were blocked by Israel and the US. U.N. Undersecretary-General for Humanitarian Affairs, John Holmes, described the blockade as "collective punishment" (<http://www.reuters.com/article/2008/01/18/idUSN183430830>). On 15 December 2008, UN Special Rapporteur Richard A. Falk described the embargo on Gaza as a crime against humanity, (<http://www.nytimes.com/2008/12/16/world/middleeast/16mideast.html?ref=middleeast>). In August 2009, U.N. human rights chief Navi Pillay criticized Israel for the blockade calling it a violation of the rules of war. (<http://www.foxnews.com/story/0,2933,539363,00.html>) In March 2010, UN Secretary-General Ban Ki-Moon stated that the blockade of Gaza triggers "unacceptable suffering" and that families were living in "unacceptable, unsustainable conditions".(http://news.bbc.co.uk/2/hi/middle_east/8578611.stm) while the UN Human Rights

In the legal field the Israeli government, as well the Ethiopian one, violates the international law¹⁴⁸ and evokes the anti-terrorism argument to justify its blockade¹⁴⁹.

Final remarks

My findings are that the manipulation of WPF food assistance applied by Ethiopia, as a war mean against the ONLF is contrary to the international law as it violates article 3 of the four Geneva Conventions, the article 14 of the additional Protocol 2 and the relative UN resolutions.

This food blockade has impact in the battle of the Ethiopian state for its territorial integrity¹⁵⁰. I argued in the current essay that from a legal point of view the right to self determination does not exist beyond the decolonization process. However, new developments in international law rather extend this right and in cases beyond the scope of colonized people. Therefore, the Chatham House examining whether Kosovarians are entitled of the right to self determination, delimits three cases in which this right could emerged. These are '*1. First, when a people is subject to racist/apartheid regimes or what is called 'alien domination', a vague term best understood to cover situation of foreign occupation. 2. Second, when an existing state disappears, in which case its constituent components get a right of external self-determination. This is not a situation of secession, since there is no state to break away from. 3. Third, possibly, a situation of an extreme violation of internal self-determination involving gross human rights violations*'¹⁵¹. Applying these criteria to the Ogadeni it could be supported that they could obtain this right as they die, due to the food blockade, and therefore, they fall within the above mentioned third case.

But the manipulation of food influences also the security questions in the horn of Africa. Additionally, it has further implications since helping the EPRDF to consolidate its power, to the extent that the EPRDF is a basic ally of the US, China and the EU, it permits them to realize their interests in the security and economic sector in a globalized environment.

Council concluded that the blockade was possibly a crime against humanity, (see the Goldstone report' op.cit p 24).

¹⁴⁸ The Gaza blockade, as it concerns the humanitarian assistance, is a violation of both the international criminal law and the international human law ie of the four Geneva Conventions of 12 August 1949, of the Additional Protocol I on the protection of victims of armed conflict, the International Convention on the Elimination of All Forms of Racial Discrimination, ICCPR, ICESCR, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women., all these legal instruments having been ratified by Israel except for the two Additional Protocols that have legal binding force as part of the customary international law see the Goldstone report op.cit pp 83, 88-95.

¹⁴⁹ <http://fox6now.com/2012/10/20/israeli-navy-stops-ship-bound-for-gaza/>

¹⁵⁰ However, while it is extremely difficult to assess the impact of the food blockade in the military capacities of the ONLF, albeit it is accepted by military specialists that the ONLF does not pose a significant military threat to Ethiopian forces (see David H. Shinn's (2009) p 5), in the political filed, the food blockade has not achieved its goal since it has lead to a 'revival of Somali national sentiment and a sense of a common destiny that cuts across the clan divide' see Chatham House (2007) p 7.

¹⁵¹ See Chatham House (2008) pp 10-11.

My comparative analysis has also shown that the WFP food blockade in the Ogaden, with some slight differences, has common elements with this implemented by the Derg, and the Israeli government. Not only the respective tactics applied by all these regimes, which had been reinforced and accompanied with other internal economic measures in all these cases, but also the passive stance of the UN and the three above mentioned international actors towards them, their legal assessment and the State justifications of them have an homogeneity. That further proves that when an alliance of the above three international actors occurs then the WFP can be transformed from a relief agency to a tool of foreign policy.

In the case of the Ogaden, this alliance offers severe guaranties that any sanction against the Ethiopia, including criminal persecution of its rulers¹⁵² by the SC, or suspension of the assistance by the WFP, will not occur. Thereby, a falling state as Ethiopia will continue the WFP relief playing the victimization card and pursuing its political goals. In that context what could stop the abuses of the WFP aid? A restart of negotiations between the EPRDF and the ONLF¹⁵³ that will aim not to intrench their interests but to ensure the survival of the population in the Ogaden.

¹⁵² International law has expanded the responsibility also to internal conflict see David Marcus op. cit p 270. But Ethiopia has not signed and ratified the Rome Statute of the ICC of 1998 (http://www.genevaacademy.ch/RULAC/international_treaties.php?id_state=65) and therefore according to the art 34 of the Vienna Convention on the law of the treaties (1969) its citizens are not subject to ICC jurisdiction. Thereby the only possibility to judge the Ethiopian rulers is if the SC under the VII Chapter of the UN Charter creates an *ad hoc* international criminal Court as it did Yugoslav and the Rwanda case, (see Richard J. Goldstone (1995) pp 5-10), which it is rather difficult to be expected view to the above explained alliance between the US, China and the Ethiopian regime.

¹⁵³ The latest collapsed on 18-10-2012
<http://www.ethiopianreview.com/forum/viewtopic.php?f=2&t=43551>

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