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Implementing a Human Rights Approach to Food Security

Charlotte McClain-Nhlapo

The concept of the right to food is not new. The right to food has been formally recognized since the adoption of the United Nations Universal Declaration of Human Rights in 1948. Nevertheless in a time of plenty, an estimated 800 million people, primarily in developing countries, are undernourished and food insecure. More disturbingly, the Food and Agriculture Organization of the United Nations (FAO) reports that the number of undernourished people in developing countries is no longer falling—rather, it is climbing.



The international community has identified the reduction of poverty and hunger as one of the overarching goals for development policy in the new millennium. The Millennium Development Goals outline a framework for development actions, as well as benchmarks for measuring development progress. At the 1996 World Food Summit, reducing hunger and food insecurity was declared an essential part of the international development agenda. A commitment to the right to food was articulated in the International Code of Conduct on the Human Right to Adequate Food, initially proposed before the World Food Summit. The International Code of Conduct was pioneered by concerned nongovernmental organizations (NGOs). In essence, the proposal introduced a rights-based approach to food security. This concept has evolved to the point where states are developing voluntary guidelines for the progressive realization of the right to adequate food, including consideration of state obligations. To facilitate this process, an intergovernmental working group was established by FAO.

A further recommitment to the right to adequate food came in 1999 from the United Nations Committee on Economic, Social, and Cultural Rights, in the text of the International Covenant on Economic, Social, and Cultural Rights (hereafter, the International Covenant). An authoritative statement, General Comment 12, seeks to clarify the substance of the right to adequate food, stating that the right 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.” This implies the “availability of food in a quantity and [of a] quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture” and the “accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.”

The General Comment further identifies three types of obligations emanating from the International Covenant: like other economic and social rights, the right to adequate food confers an obligation on states to respect, protect, and fulfill that right. This means that states should not adopt measures that could ultimately prevent access to adequate food, that they should adopt measures to ensure that no individuals are deprived of their access to adequate food, and that they should proactively engage in activities to strengthen people’s access to and use of resources, including means to ensure their livelihood and food security. This last obligation can be met through policies and programs—such as microcredit, incentives to the private sector to create jobs, and effective implementation of labor laws and

agrarian reform—that create economic opportunities for those who are vulnerable and food insecure.

Whenever an individual or group is unable, for reasons beyond their control, to obtain adequate food through the means at their disposal, states have the obligation to fulfill that right directly. Importantly, this obligation also applies to persons who are victims of natural or other disasters.

REGIONAL AND NATIONAL DEVELOPMENTS

At the regional level, there have been some critical developments in relation to the right to adequate food. Recently in Maputo, Mozambique, the heads of state of the African Union unanimously pledged to increase agriculture’s share of public expenditure to at least 10 percent within the next 10 years—an indication of political will, which is essential in addressing hunger. The African Commission on Human and Peoples’ Rights has also focused on the issue of the right to food, even though the African Charter on Human and Peoples’ Rights does not explicitly mention the right to food. The commission handed down a decision requiring states to protect and improve existing food sources and to ensure access to adequate food for all citizens.

At the national level, the concept of the right to food has also been recognized. Consultations on the right to food have taken place in Germany, Norway,

Switzerland, Mali, Sierra Leone, South Africa, and Uganda. These consultations have been instrumental in articulating the right to adequate food in particular national contexts by bringing together relevant stakeholders and providing platforms for dialogue. The consultations also provided a forum to share best practices and learn about other countries' experiences. In many of the consultations, stakeholders reviewed their current status in relation to the right to adequate food and identified further necessary actions in view of General Comment 12 and the requirements of the International Covenant. As a result of the consultations, stakeholders were able to more effectively identify and analyze gaps at the national level. Tremendous progress has stemmed from these consultations, and in some cases draft policies and programs have been established.

CRITICAL SUCCESS FACTORS

It is worth noting that more than 40 countries* already have the right to food entrenched in their constitutions, and FAO estimates that rights related to food are justiciable, or likely to be justiciable—meaning that courts can enforce the right—in a total of 54. Very few countries, however, have elaborated the constitutional provisions into domestic legislation as required by the International Covenant.

Good governance is essential in the realization of all human rights, including eliminating poverty and ensuring a satisfactory livelihood for all. The development of legislation is important, but it must be supported by implementation strategies. The committee of the International Covenant offers the following statement regarding implementation at the national level: “The formulation and implementation of national strategies for the right to food requires full compliance with the principles of accountability, transparency, people’s participation, decentralization, legislative capacity and the independence of the judiciary.”

In terms of legislation, the enactment of framework law is a key element. Such law would offer legal provisions and obligations in relation to the implementation of national strategies on the right to adequate food. Broadly, the law would stipulate overall governance objectives, along with the necessary targets, goals, and

timeframes to achieve those objectives. The framework law must include provision for accountability and monitoring and could even stipulate the bodies and structures that would be best placed to monitor the implementation of national strategies. Countries that have national human rights institutions and that subscribe to the Paris Principles (essentially requiring national human rights institutions to be independent and impartial) could play a supporting role, and the voluntary guidelines discussed above would be a useful monitoring tool. These suggestions follow the recommendations of the International Covenant committee, which noted that “verifiable benchmarks for subsequent national and international monitoring” should be developed.

Civil society is another critical stakeholder in advancing the right to adequate food. NGOs, farmers’ organizations, women’s organizations, and the private sector all have fundamental contributions to make. National strategies on the right to adequate food should seek to empower communities and facilitate enabling environments, which clearly requires the involvement of civil society. Building partnerships—locally, nationally, and internationally—is a cornerstone in addressing and implementing the right to food.

A RIGHTS-BASED APPROACH

The premise of a rights-based approach to ensuring adequate food is empowering poor people and those who are food insecure. Empowerment is integral to any strategy that moves away from the benevolence model of food aid and instead emphasizes enabling environments that support people in feeding themselves. Empowerment also removes the full burden of providing food from states. Nevertheless, as previously stated, in the event that people are unable to feed themselves (because of household shocks or other circumstances), the state must accept the responsibility to assist, whether through social safety nets or other programs and policies that protect vulnerable people from hunger.

Significantly, a rights-based approach would provide a basis in law from which claimants could seek administrative and or legal recourse. The framework law already discussed would assist in providing legal remedies in relation to the right to adequate food—in short, making

* Australia, Bangladesh, Belgium, Bolivia, Brazil, Cape Verde, Croatia, Denmark, Ecuador, Ethiopia, Finland, France, Germany, Guatemala, Honduras, Hungary, Iceland, Iran, Ireland, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, the Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Peru, Poland, Portugal, Puerto Rico, Russian Federation, Suriname, Sweden, Uganda, United Kingdom of Great Britain and Northern Ireland, the former Yugoslav Republic of Macedonia, Venezuela.

the right justiciable. The Universal Declaration of Human Rights of 1948 makes a strong call for judicial remedies. Article 8 states that “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”

The right to food is a crosscutting issue. It presents a perfect example of the indivisibility, interdependence, and interconnectedness of economic and social rights. Accepting the indivisibility of human rights means recognizing the importance of civil and political rights in assuring that people can effectively advocate measures that will advance food security. Conversely, when people enjoy food security, they are also better able to participate in the civic life of their community and nation. Notwithstanding the indivisibility of rights, the right to adequate food has a privileged place among human rights, because without adequate food and nutrition, human survival and development are at risk.

A rights-based approach to ensuring adequate food is advantageous on many levels. It introduces the well-established principles in international human rights law of nondiscrimination and equality; it supports a number of other basic human rights, such as the right to the highest attainable standard of health; and it significantly enhances human dignity and democracy. Such an approach also draws attention to the most vulnerable. It requires the early identification of hunger pockets and, more importantly, of why people are food insecure. In short, the approach requires a perspective that addresses not only the consequences of food insecurity but also its causes.

The fundamental importance of the right to adequate food points to the need for national strategies that are comprehensive in their scope and coordinated in their implementation. Such strategies must be linked to pro-poor initiatives, must be credible and realistic, and must identify concrete actions for the various duty bearers. A rights-based approach identifies the poorest of the poor; seeks people’s participation, and promotes good governance; it empowers local communities to participate in decisionmaking and in holding the state accountable for its obligations; and it facilitates people in taking direct responsibility for themselves so that they resort to state assistance only where necessary. In short, a rights-based approach enables people to become part of the solution. Provided there is social mobilization and empowerment of the most vulnerable, this approach is perhaps the most effective way of building food security. It also allows claimants to assert and claim their rights, making the critical shift from treating hunger and food insecurity as a charitable endeavor to recognizing adequate food as a right that must be protected by law.

For further reading: United Nations Committee on Economic, Social and Cultural Rights, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment 12, The Right to Adequate Food,” (Art 11, 20th session, 1999, E/C.12/1999/5); A. Sen, *Development as Freedom* (Cambridge, UK: Oxford University Press, 2001); Food and Agriculture Organization of the United Nations, *The Rome Declaration on World Food Security and the World Food Summit Plan of Action* (Rome: FAO, 1998).

Internet resources:

www.fao.org/Legal/rtf/rtf-e.htm

www.irinnews.org

Charlotte McClain-Nhlapo (CMcClain@sahrc.org.za) is Commissioner of the South African Human Rights Commission, based in Johannesburg.



**INTERNATIONAL FOOD
POLICY RESEARCH INSTITUTE**

2033 K Street, NW
Washington, DC 20006-1002 USA
Telephone: +1-202-862-5600
Fax: +1-202-467-4439
Email: ifpri@cgiar.org

www.ifpri.org



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