



Kizito Michael George

Human Development and the Right to Food in Sub- Saharan Africa

Political Realities versus Economic Dynamics



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SAHARAN**

**AFRICA : POLITICAL REALITIES VERSUS ECONOMIC
DYNAMICS**

KIZITO MICHAEL GEORGE

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CHAPTER ONE

GENERAL INTRODUCTION

The Human Right To Adequate Food: Historical Processes And Instruments

Peter Milton Rukundo¹ and A. Byaruhanga Rukooko²

Abstract

The saying “we eat to live” is a clear testimony on how food is at the core of humanity and development. Realizing the right to food of the world’s population is thus an urgent obligation that may be unique from other human rights and freedoms given the importance of adequate food for organisation and prosperity of communities. Though rooted in international law and instruments, in Africa, the right to food and freedom from hunger has historically been transformed by external forces of slavery, colonialism, imperialism, apartheid, and conditioned economic policies, whose activities have often attempted to limit the enjoyment of this right. Surprisingly, the ‘ray of hope’ that emerged with independent and sovereign States in the

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1950's and 1960's was later to vanish as most parts of the continent began to witness civil wars, constitutional instabilities, inequalities, and the emergency of poor leadership that did little to end hunger and starvation on this resourceful continent.

This paper examines the historical processes and events that have shaped the content of the right to adequate food in international legal instruments, and in national Constitutions of Africa. It explores the path this right has taken from the debates that informed the Charter of the United Nations, into instruments and tools of international and national law; including the events that have propelled the right to food to be high on the agenda of the United Nations agencies and the World Food Summits, thus imploring how and why this right may require 'urgent' and not 'progressive' realization as has always been perceived. The paper also explores the extent to which the African Charter on People's and Human Rights (ACPHR) and national Constitutions in Africa, have reflected on the right to food and concludes that the position of the right to food in Africa is still undesirably loose mainly because most States have done much to avoid accountability by providing weak legislative commitments and pledges in their national laws.

Introduction

Adequate food is a human right of every individual in every country and this has been formally recognised by the great majority of the States. Indeed the resources that sustain human life, owe their exploitation to humanity for

whom food is not only a basic need for survival but also a fundamental human right that everyone ought to claim and enjoy with dignity.³

Although significant progress has been made towards achieving the first Millennium Development Goal (MDG 1) of halving, between 1990 and 2015, the proportion of people (850 millions at time of drafting MDGs) who suffer from hunger, the pace has been slow (FAO 2006a; 2008a). The sad reality is that it has reported that virtually no progress has been made in Sub-Saharan Africa towards attaining the 1996 World Food Summit (WFS) target of halving 1990-1992 numbers of undernourished populations by 2015 as pledged by the 180 heads of State that attended the Rome WFS: more than 920 million people are undernourished worldwide; an increase of 75 million in 2007 due to rising food prices FAO (2008a).⁴

This paper provides the reader with information on the historical processes and instruments that have shaped the right to food debate. An attempt has also been made to explore the critical barriers that have slowed down the debate to ensure freedom from hunger in the African Charter on Human and People's Rights (ACHPR) and national legislative processes. The discussion herein thus provides a basis of advocacy and promotion of the right to adequate food as a fundamental human right by all persons in all countries which are State Parties to international human rights instruments emphasising and supporting this right.

³ 'Access to adequate food and or resources to buy the same, should be proclaimed by States as the most basic human right and a precondition to human and economic development' Declaration by the 1989 15th Ministerial session of the World Food Council (WFC) in Cairo, Egypt (Jonsson 1996).

⁴ The world is now faced by a double burden of disease characterized by a concurrent surge in both under nutrition and over nutrition related diseases and disorders (Caballero and Popkin, 2002). Chronic diseases contribute 46% of the global burden of disease and is expected to increase to 57% by the year 2020, and if the prevailing nutrition transition (shift from diets rich in whole grains, fresh foods and low animal products, to diets rich in refined carbohydrates, sugar and animal based fat) is sustained (Danton-Hill *et al.*, 2004).

Human rights as universal values of protection

In political theory, human rights are moral and legal entitlements of protection that people have against political and societal threats (Andreassen, 2007), while in human rights terms it is a fundamental human right, not only an entitlement; human rights represent behavioural norms and principles that define the relationship between two parties, *duty bearers* and *rights holders*. All human rights are ‘*universal, indivisible, interrelated, and interdependent*’.⁵

The Charter of the United Nations (UN) which was signed on 26th June 1945 in San Francisco, at the conclusion of the United Nations Conference on International Organization,⁶ re-affirmed faith in fundamental human rights and dignity of all persons, and equal rights of men and women and of nations large and small (UN 1945). This Charter was a call on States to change the quality and nature of public authority so as to make it conform to a projected standard of social contract set out in the package of human rights contained in the Universal Declaration of Human Rights (UDHR), launched by the UN in December 1948 as a universal project to be achieved through national and international efforts (Eide, 2005).

Despite the UDHR which was a single instrument encompassing all human rights, controversial and contested decisions by the United Nations General Assembly in 1951 led to drafting of two separate Covenants: the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR),

⁵These principles constitute the Vienna Declaration on Human Rights of 1993.

⁶The Charter came into force; was agreed by a considerable number of states, on 24th October 1945.

both of which were adopted in 1966 and came into force in 1976.⁷ The UDHR, the ICCPR, and the ICESCR together constitute the International Bill of Human Rights and are the basis of various Conventions, Treaties, Declarations, and Statements recognised by the UN and its various agencies.

The human right to adequate food in international human rights instruments

The human right to adequate food and to be free from hunger is firmly established in international human rights law, yet hundreds of millions of people in the world continue to suffer from hunger and malnutrition (Eide and Kracht, 2005).

In the negotiations of the UDHR in 1947-1948, there was a broad support for Economic, Social, and Cultural Rights (ESCR), notably from the then President of the United States of America (USA) Franklin Delano Roosevelt, who had already proclaimed in his 1941 ‘four freedoms speech’⁸ that a ‘a man in need is not a free man’ (Alston, 1990; Eide, 1998). These speeches of President Roosevelt in the 1940’s strongly influenced drafters of the Universal Declaration of Human Rights (UDHR) by providing a foundation upon which the human right to adequate food came to be inscribed into Economic, Social, and Cultural Rights (ESCR) (Alston and Tomasevski, 1984). In a famous ‘State of the Union’ address to the USA Congress in 1944, President Roosevelt argued that,

“...a basic essential to peace is a decent standard of living for all individual men and women and children of all nations. Freedom from fear is eternally linked with freedom from want...we have come to a

⁷The debates that surrounded the UDHR were based on the premise that ESCR were 2nd generation rights that were expensive to realise, non-justiciable, progressive/gradual, while capitalists argued that these rights would contradict a free market enterprise (Alston 1990; Eide 1998; Engh 2008).

⁸The four freedoms proclaimed by President Roosevelt, in 1941 include Freedom from want, freedom from fear, freedom of speech and freedom of faith.

clear realization of the fact that individual freedom cannot exist without economic security and independence. Necessitous men are not free men. People who are hungry and out of a job are the stuff of which dictatorship are made...a new basis of security and prosperity can be established for all regardless of station, race, or creed..."

These 'famous speeches' by Roosevelt built upon his elaboration on how 'freedom from hunger' was a major component of 'freedom from want' in his proposal to the 1943 International Conference in Hot Springs Virginia, and this led to presentation of an article on, 'The Human Right to Adequate Food' by the Government of Panama to the 1945 San Francisco Conference at which the United Nations was founded (Alston and Tomasevski 1984; Alston 1990; Jonsson 1996). Following these debates, the UDHR recognised the right to adequate food within the context of the right to an adequate standard of living under Article 25(1),

"Everyone has a right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control".

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) represents a commitment by States which have ratified it (States' Parties') to recognize all Economic, Social, and Cultural Rights (ESCR). Article 11.1 specifies on the human rights to an adequate standard of living including adequate food,

"State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and the continuous improvement of living conditions..."

Article 11.2 of the ICESCR recognises freedom from hunger and implicitly elaborates on the States Parties obligation to progressively realize the right to adequate food,

“The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

- (a) To improve methods of production, conservation and distribution of food by making full use of technological and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;*
- (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need”.*

The Convention on the Rights of the Child (CRC), which was drafted in 1989 and came into force on 2nd September 1990,⁹ recognizes food and nutrition related rights in the context of, “the right of the child to the enjoyment of the highest attainable standard of health and medical care” (Article 24.1), calling on the State Parties to take measures:

- c) To combat disease and malnutrition...through inter alia the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water..;*
- e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation.*

⁹The CRC is known to have been adopted in a record time of 9 months due to lobbying by UNICEF prior to the World Summit on Children of 1990.

Article 27 of the CRC, in particular Article 27.3, asserts the child's right to an adequate standard of living including nutrition,

"States Parties...shall in case of need provide material assistance and support programmes particularly with regard to nutrition, clothing, and housing".

Elaborating the right to food; the debates and studies of the 1980's

The inclusion of the right to food into the ICESCR, which as *interalia* entered into force in 1976, was an important milestone but its realisation, and other related Economic, Social, and Cultural Rights (ESCR) have not been given sufficient implementation platforms as compared to the widely publicised Civil and Political Rights (CPR). The debates and scholarly contributions in the 1970's emphasised what Oshaug and Eide (2003) have termed as "the evolving nutritional planning period of the 1970's". The right to food was also not given adequate attention by 1974 World Food Congress (WFC); it has been argued that the WFC was pre-occupied with national food security intervention strategies, especially increasing food production and grain stores as a remedial measure to the global food shortages that was a development concern at that time (Eide, 2005; Engh, 2008).

Even when scholars attempted in the early 1980's to engage more directly in addressing the right to food and exploring what ought to be expected by the States, international instruments were of limited help and a systematic debate was obviously needed. As such, the first ever international seminar on food as a human right was organised for the United Nations in September 1981 at Gran in Norway with support of UNICEF and the Norwegian Government. This first international gathering to discuss the human right to adequate food included legal human rights experts, general developmentalists, and food and nutrition analysts among others, and was an

inspiration of a vision that this particular human right would inspire new approaches to the hunger problems in the world (Eide, *et al.*, 1984; Oshaug and Eide, 2003).¹⁰

Triggered by the early debate, the right to food was taken up by the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities and upon its recommendation for a special thematic study on this theme,¹¹ the United Nations Economic and Social Council (ECOSOC) authorised the Sub-Commission to entrust Asbjørn Eide, a Norwegian human rights expert, with the preparation of a study on the right to food as a human right.¹² A preliminary report was presented in 1984 and the final report on this very first special and thematic study to penetrate a specific ESCR was presented in 1987,¹³ and later published as the first in a new Human Rights Study Series of the UN Centre for Human Rights in 1989 (UN 1989).¹⁴

Key among the first thematic study by Asbjørn Eide was the right to food matrix; an intellectual breakthrough modelled and presented as a 'cross-fertilization' framework of State obligations and elements of household food and nutrition security. As was seen in subsequent publications on this matrix (Eide, Oshaug and Eide 1991; Oshaug, Eide and Eide, 1994), it is worth appreciating that this idea was jointly conceived by Asbjørn Eide, Wenche

¹⁰ Among the key outcomes from this right to food seminar of 1981 were propositions of State obligations of *respect*, *protect*, and *fulfil* (Eide 1984), and the need to develop an international convention elaborating this right (Alston 1984).

¹¹ Resolution 1983/16.

¹² Decision 1983/140 of 27th May 1983.

¹³ Another significant boost to the right to food debate in this particular year is the establishment of the Committee on Economic, Social, and Cultural Rights (CESCR) – the treaty monitoring organ of the ICESCR, in 1987.

¹⁴ This first thematic study on the right to food by Asbjørn Eide become an important reference document and laid the ground for much of the normative and other substantive work on the right to food that was to follow (Eide, Oshaug and Eide 1991; Oshaug and Eide 2003).

Berth Eide, and Arne Oshaug.¹⁵ While Asbjørn was lawyer with loyalty to a legalistic approach to international human rights, Wenche and Oshaug were nutrition scholars at the Department of Nutrition Sciences, University of Oslo, and it is this link that provided Asbjørn the focus to elaborate the right to food and to be free from hunger in his thematic study (Oshaug and Eide 2003). The three have since worked as a team and extensively published and advocated for the right to food, including gaining of prestigious recognition and consultation on the right to food and to be free from hunger worldwide, through the International Project on the Right to Food in Development (IPRFD) that they founded at the University of Oslo on 1st April 2000.¹⁶ From the pioneering UN study of 1989, a wealth of ideas and debates emerged among the development actors on how the right to food and related rights would be advanced in practical terms. Through various moves led by early promoters in Norway, together with leading human rights advocates, a meeting was organised in 1994 at the International Child Development Centre (*Innocenti*) in Florence, inaugurating the “World Alliance for Nutrition and Human Rights” (WANAHR), which in its first six years played an active role in creating more interest in the right to food among Non-Governmental Organisations (NGO) circles.¹⁷

With WANAHR as an active player, a vigorous lobbying for a human rights focus took place prior to and at the World Food Summit (WFS) in 1996 by providing intellectual support for a thematic working group on “Nutrition,

¹⁵ Asbjørn Eide is husband to Wenche Eide while Arne Oshaug is their long term academic friend; the trio is all Norwegian academicians based at the university of Oslo.

¹⁶ The discussion herein is reinforced by the premise that both authors of this paper have had a rare opportunity to be students of the three scholars: Asbjørn, Eide, & Oshaug, and we indeed acknowledge the expertise and contributions that they have made on this noble concept of the right to food, as perceived through the wider lens of nutrition and human rights.

¹⁷ WANAHR was co-ordinated by Asbjørn Eide and Uwe Kracht, who laws also another pillar of the right to food movement from its early years (Oshaug and Eide 2003).