

Invited Review

A Human Rights Approach To Nutritional Well-being

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INTRODUCTION

Food and nutrition are of paramount importance to sustainable human development. Where there is poor nutrition one finds a woefully inadequate formation and utilization of human capabilities. Malnutrition, if it does not lead to death, has profound consequences that extends not only into later life, but also into future generations. Among the adverse effects of malnutrition are increased morbidity, mental impairment, reproductive difficulties, physical disability, reduced work productivity and increased susceptibility to diet-related adult disease.

The Food and Agriculture Organization of the United Nations (FAO) made a report on the state of food insecurity in the world and estimated the prevalence of hunger (how many are hungry) and depth of hunger (how hungry are the hungry). According to the FAO (2000), in 1996-1998, 791 million people in developing countries had food intake below the minimum requirement; 65 percent were in China, India and other parts of Asia. In terms of sheer numbers, there are more chronically hungry people in Asia and the Pacific than in any other region of the world but the depth of hunger among the undernourished is greatest in sub-Saharan Africa.

The fourth report on the world nutrition situation was issued by the United Nations Administrative Committee on Coordination, Sub-Committee on Nutrition (ACC/SCN, 2000) last year. It was estimated that 11 percent of all newborns in developing countries or 11.7 million infants have low birthweight at term (LBW). The major determinants of LBW are nutritional: inadequate maternal nutritional status before conception; short maternal stature, principally due to undernutrition and infection during childhood; and poor maternal nutrition during pregnancy. LBW is especially common in South Central Asia, which accounts for about 80 percent of all affected newborns worldwide. The same region is the worst affected by undernutrition in preschool children; around 45 percent of these children are stunted and underweight for their age.

The vast majority of countries have experienced substantial growth in total food production over the past decades and global food supplies have expanded faster than the world's population. Despite very substantial advances in science and technology and the oft-repeated fact that the world as a whole produces enough food for everyone, the reality is that food does not reach many millions of people who lack access to available food or the means for food production.

There has been some progress in addressing the problems of hunger and malnutrition and there are inspiring stories of a few countries that moved much further ahead in promoting the nutritional welfare of their people. But, on the whole, the level of performance has been

unsatisfactory, with the prevalence of the problem remaining high and the rate of change slow and patchy across regions of the world.

Clearly, present approaches to dealing with malnutrition are limited. The inadequacy of technical innovations and economic growth, on their own, to address the causes of the problem and to build people's capability to be well nourished and healthy has opened the door to a new paradigm: one that has a normative foundation, not merely a utilitarian objective and that starts with the position that all human beings possess certain rights inherent in their nature.

ON HUMAN RIGHTS

A rights-based perspective must serve as the rationale for human beings to be properly nourished. In a human rights framework, rights impose corresponding binding obligations on others and the concept of rights holders and duty bearers goes beyond the basic needs approach to human development. Governments, as state parties to an international covenant, are obligated to ensure the realization of a right and implement its provisions at the national level. The primary responsibility to uphold human rights rests with the state.

Human rights are legally binding on the state. They are not optional. They are not simple statements of commitment or promises. They are not addressed as acts of charity or out of the benevolence of governments.

In a human rights framework, any person or group whose rights are violated should have access to appropriate remedies and all victims of such violations are entitled to adequate reparation. States parties should respect and protect the work of human rights advocates and other members of civil society who assist vulnerable groups in the realization of their right.

Accountability is a key element of a human rights system. States are accountable for the implementation of human rights and have the obligation to report domestically and to the appropriate UN agency.

Assessment of the fulfillment of human rights focuses not only on what progress has been made on the goals that were set but also on the extent to which the gains are protected against potential threats. In a rights-based approach what matters is not the number who have their needs met, but the number whose needs have not been met, and therefore whose rights may have been violated.

The UNDP (1995) suggests three perspectives to be used simultaneously to indicate human rights accountability. An *average* perspective shows overall progress in the country. A *deprivation* perspective asks who are the most deprived groups and how they have progressed over time. The *inequality* perspective asks what is the disparity between groups and the progress in narrowing inequalities.

THE RIGHT TO ADEQUATE FOOD

The Universal Declaration of Human Rights was proclaimed in a resolution of the General Assembly of the United Nations on 10 December 1948 as the common standard of achievement for all people and all nations in respect for human rights (UN, 1948). The right to food is enshrined in Article 25 of the Declaration, further spelled out in Article 11 of the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly in 1996 (UN, 1966) and reiterated with a view to its more qualitative nutritional aspect in the Convention on the Rights of the Child (CRC Article 24.1) adopted in 1998 (UN, 1989).

According to Article 11 of the Covenant, “The States 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”. In addition, it says that “States Parties recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed: (a) to improve methods of production, conservation and distribution of food, making full use of technical and scientific knowledge, by disseminating of the principles of nutrition and by developing or reforming agrarian systems and (b) to ensure an equitable distribution of world food supplies in relation to need.”

Article 24 of the CRC declares that “States Parties shall take appropriate measures to combat disease and malnutrition through *inter alia* the application of readily available technology and through provision of adequate nutritious foods and clean drinking water and to ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation.” In addition, Article 27 says that “States Parties shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

The core content of the right to food has two implications: the availability of food in a quantity and 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 (UN Economic & Social Council, 1999). Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand. Accessibility encompasses both economic and physical considerations.

The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. It will have to be realized progressively but States have a core obligation to take the necessary action to mitigate and alleviate hunger, even in times of natural or other disasters.

The right to adequate food does not obligate a state to feed directly anyone and everyone under its jurisdiction regardless of their circumstances and even when they have access to resources to provide for themselves. A state’s obligation must be seen in terms of the individual being the

active *subject*, not the object, of development. All individuals have duties not only to themselves but to other individuals and to the community; as such, they should be *active* participants and not passive objects dependent on governmental largesse.

The right to adequate food imposes three types or levels of obligations on the State: the obligations to respect, to protect and to fulfill, with the last including both an obligation to facilitate and an obligation to provide (UN Economic & Social Council, 1999). The obligation to *respect* existing access to adequate food requires the State not to take any measures that result in preventing such access. The obligation to *protect* requires measures by the State to ensure that enterprises or individuals do not deprive other individuals of their access to adequate food. The obligation to *fulfill (facilitate)* means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, the State has the obligation to *fulfill (provide)* that right directly.

The government's obligation to *fulfill* by directly providing what is needed becomes operational when these needs are not adequately addressed as a result of the individual's own initiatives in the framework of the government's effort to respect, protect and facilitate. The government is the provider but only for certain categories of people and in certain circumstances.

FAMILIES AND HUMAN RIGHTS

The realization of an individual's right to food will, in most cases, take place in the context of a family as the smallest economic unit. The human rights framework becomes increasingly more important in a globalizing world dominated by economic and market forces with little concern for at-risk individuals and marginalized families and with the decline of group or family responsibilities for the elderly, disabled and other vulnerable individuals in their daily struggles.

The year 1994 was declared as International Year of the Family (IYF) by the United Nations. One of the seven principles underlying the IYF proclamation was to promote the basic human rights and fundamental freedoms accorded to all individuals by the set of internationally agreed instruments formulated under the aegis of the United Nations, whatever the status of each individual within the family, and whatever the form and condition of that family (UN Centre for Social Development & Humanitarian Affairs, 1999).

How far have professions and organizations concerned with families, such as nutrition, moved since then? How well have they improved their understanding of human rights and engaged others, so they, too, would have a better knowledge and appreciation of human rights? To what extent have they integrated the human rights paradigm in nutrition training, education, research and programs?

Theoretically, the idea of human rights should be internal to the discipline of nutrition, it being concerned with the ideal state of well-being. *Ideals* implies norms and what ought to be. While science deals with what *can* be done, human rights deals with what *should* be done.

Human rights are those rights inherent in our nature as human beings and without which we cannot live with dignity as human beings.

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