

C2A Notes

Agriculture and food in question

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THE RIGHT TO FOOD: AN OPERATIONAL TOOL FOR WORLD FOOD SECURITY

THE ORIGINS OF THE RIGHT TO FOOD

The Right to Food has been acknowledged since the Universal Declaration of Human Rights (UDHR) of 1948. Article 25 of the Declaration cites the right to food: "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 components of the Declaration were divided into two treaties, with the first devoted to *civil and political rights*, and the second devoted to *economic, social and cultural rights*.

The RtF is included in the International Covenant on Economic, Social and Cultural Rights, adopted in 1966 by the United Nations General Assembly, which entered into force in 1976. To date, 160 countries have ratified it. Article 11 of the Covenant recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food" as well as "the fundamental right of everyone to be free from hunger."

But it was in the 1980s that the right to food was clarified. Two authors made essential contributions to this.

In 1981, in his book *Poverty and Famines*, Amartya Sen (winner of the 1998 Nobel Prize in Economics) showed that famines are not caused by production deficits but are the result of inappropriate policies that increase income inequalities and lower the purchasing power and access to food of certain segments of the population. Famine is therefore a policy issue and not merely a technical issue (yields, etc.).

In his 1985 report on the right to food, Asbjørn Eide (former Special Rapporteur on the Right to Adequate Food) specified its legal content and resulting obligations for governments. He identified three obligations:

- Obligation to respect rights, that is not to adopt measures that impede the enjoyment of rights;
- Obligation to protect rights, for example by adopting measures that regulate private actors; and
- Obligation to facilitate the realization of rights, for example by providing foodstuffs or via proactive policies.

Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966 (extracts)

"1. 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 to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

"2. 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 technical 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."

Author's emphasis.

In 1996, the Declaration of the World Summit on Food Security contained a request to clarify the right to food.

In 1999, the General Comment No. 12 of the United Nations Committee on Economic, Social and Cultural Rights, the body in charge of supervising implementation of the Covenant, provided a more elaborate definition of the right to food: "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."

In 2000, the United Nations Commission on Human Rights created the position of Special Rapporteur on the right to food.

Finally, in 2004, the International Code of Conduct on the Human Right to Adequate Food was elaborated with NGOs. It led to the adoption of "voluntary guidelines to achieve the progressive realization of the right to adequate food in the context of national food security," adopted by 187 FAO Council countries.

These very detailed guidelines for States make the right to food operational.

FIVE DISCUSSION POINTS

The FAO's Guidelines Clarified Governments' Obligations

In 2004, the unanimous adoption of the Guidelines on the right to food by the FAO Council was one of the most important stages in the history of the right to food. For the first time, the international community was in complete agreement on its meaning. These guidelines form a bridge between the legal acknowledgment of this right and its effective attainment, providing governments, civil society and other partners with a coherent set of recommendations. Nineteen in number, they cover economic development policies, legal and institutional issues, agriculture and food policy, nutrition, food security and consumer protection, education and awareness raising, social security systems, emergency situations, and international cooperation. They make up a suitable framework for integrated food security policies at the national level.

The Two Faces of the Right to Food

1. It forbids governments from taking certain measures that prevent access to food or the development of production capacities (for example, the expulsion of small farmers to benefit single industrial crops, or the misappropriation of food aid).
2. It is everyone's right to policies that progressively attain the right to food by establishing national strategies targeting the right to food.

In regard to national strategies, there are four steps to set them up, according to Olivier De Schutter, United Nations Special Rapporteur on the Right to Food:

- mapping food insecurity to obtain information on the situation;
- identifying the obstacles the poor face in the realization of the right to food;
- identifying the measures to remove these obstacles; and
- determining which actors can remove these obstacles, assign responsibilities, and establish a schedule.

Mapping threats to food security alone does not suffice, however.

"The human rights approach also leads to an understanding of the requirement of food security in terms of legal entitlements and accountability mechanisms. Ensuring that everyone has access to adequate food is not enough. It is also important that they have so as a matter of right, and that corresponding obligations be imposed on public and private actors who may have an impact on the enjoyment of that right." – O. De Schutter¹

¹ "Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development", extract from the Report of the Special Rapporteur on the right to food, Olivier De Schutter, September 8, 2008.

The four characteristics of these national strategies:

- They must be participatory: “do with and not only do for” by involving farmers’ organizations, NGOs, researchers, etc.
- They must allow better coordination among the various ministries’ sectoral strategies.
- They foster the mobilization of financial resources.
- They make governments accountable by designating the measures to take.

The Obligation for Policy Coherence

These national strategies to realize the right to food require that agricultural, trade, energy, land, etc. policies be coherent with each other.

Extra-Territorial Obligations

According to De Schutter, the extra-territorial nature of the obligations for States resulting from the right to food is a complex issue that is subject to ongoing debate on which there is no consensus.

Today, there is a consensus on the idea that States must use their influence to respect and protect the Human Rights of people beyond their borders (for example, in dam financing projects by supervising national private actors acting abroad, etc.).

However, there is not currently a consensus on the obligation to realize rights (for example through international aid and cooperation).

The Role of National Courts

The relevant courts of justice have taken action in three directions:

1. Some have protected the right to food by banning States from implementing policies. In South Africa, mandatory fishing licenses that penalized small fishermen have been eliminated.
2. Some have taken note of States’ commitments, holding States accountable to populations and forcing them to explain themselves when they have not kept their promises. For instance, the Supreme Court of India ensures compliance with the Famine Code, which obliges the government to provide farmers with 100 days of work.

3. Some have obliged States to adopt national strategies.

The right to food is, therefore, much more than legal dressing on moral considerations; it is a true operational tool. The right to food finds its operational value added in the following **five areas**:

1. It avoids confusion between the goals of attaining food security and increasing production. The example of the Green Revolution from 1970 and 1990 is flagrant: the 8% increase in production in Asia and Latin America did not prevent the proportion of the population suffering from hunger to rise by 8% and 16% respectively in the two regions. The Green Revolution too frequently favored populations that were already somewhat well-off, while neglecting the poorest.

2. It draws attention to the most vulnerable populations in priority.

On the contrary, the example of Benin’s *Programme d’Urgence d’Aide à la Sécurité Alimentaire* (PUASA, emergency food security support program) shows that subsidized inputs did not benefit farmers in isolated areas (lack of road infrastructures). Similarly, the charter stores selling products at low prices were located in cities and not necessarily in the poorest areas.

3. It makes it possible to force governments to report to their populations.

This accountability notably forces greater consultation with members of parliament, civil society, etc., which is a factor in effectiveness.

4. It forces one to take into account certain principles when implementing sectoral policies (on trade, agriculture, food aid, etc.). These principles deal with non-discrimination, transparency, the participatory approach, etc.

5. It can be the central pivot in implementing development cooperation policies and in international dialogue. While donors have since 2005 followed the principles in the Paris Declaration on Aid Effectiveness (notably the harmonization of donors’ strategies), the right to food can give these principles concrete meanings and facilitate North-South and South-South dialogue.

SPOTLIGHT ON THE OPTIONAL PROTOCOL TO ICESCR

The right to food is recognized in the International Covenant on Economic, Social and Cultural Rights. The Optional Protocol to the ICESCR tends to make ESCRs enforceable, including the right to food.

1948: Ratification of the Universal Declaration of Human Rights

1966 (Dec. 16): Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol

1976: Entry into force of these instruments

1980 (Nov. 4): France ratifies the ICESCR and ICCPR

1984 (Feb. 17): France ratifies the ICCPR Protocol

1985: Creation of the ESCR Committee, in charge of supervising application of the Covenant:

- It examines the reports from civil societies and States party to the covenant on the status of ESCRs in their countries and the progress made toward ensuring the respect of the rights acknowledged in the Covenant.
- It formulates non-binding recommendations and general comments.

2008 (Dec. 10): Adoption of the Optional Protocol to the ICESCR: Ten countries must ratify it for it to enter into force.

The Protocol provides for two new mechanisms to protect ESCRs:

- Victims of violations of their ESCRs (individuals, groups of individuals, or organizations acting on behalf of individuals or groups of individuals) may file complaints with the ESCR Committee.
- When a State commits a serious infraction of ESCRs, an inquiry mechanism allows the Committee to visit the country in question so as to investigate the allegations.

2009 (Sept. 24): Protocol opened for signature by States. France is not one of the thirty-one signatories of the Optional Protocol to the ICESCR (Argentina, Armenia, Azerbaijan, Belgium, Chile, Congo, East Timor, Ecuador, El Salvador, Finland, Gabon, Ghana, Guatemala, Guinea-Bissau, Italy, Luxembourg, Madagascar, Mali, Mongolia, Montenegro, Netherlands, Paraguay, Portugal, Senegal, Slovakia, Slovenia, Solomon Islands, Spain, Togo, Ukraine and Uruguay).

This document was written based on a speech given by United Nations Special Rapporteur on the right to food Olivier De Schutter on January 13, 2010, during a working meeting organized by CCFD–Terre Solidaire for the Inter-Ministerial Group on Food Security with civil society organizations.

For more information, visit the website of the United Nations Special Rapporteur: <http://www.srfood.org/>

As part of its mission to support the collective advocacy of its members, Coordination SUD has set up working committees. The Agriculture and Food Commission (C2A) brings together international solidarity NGOs that act to realize the right to food and increase support for smallholder farming in policies that impact global food security: 4D, Artisans du Monde, AVSF, AITEC, CARI, CCFD–Terre Solidaire, CFSI, CIDR, CRID, GRET, IRAM, MFR, Oxfam France, Peuples Solidaires in association with ActionAid, Secours Catholique, Secours Islamique.

The Commission aims to coordinate the work conducted by its participants, and facilitate consultation among its members for their advocacy work with social actors and international policy-makers. The members of the Commission reach agreements on the representation provided in the name of Coordination SUD in a range of arenas (Concord in Europe, FAO, WTO, UNCTAD) and share information on current international stakes. The Commission is mandated by Coordination SUD to formulate the positions taken by the group during the main institutional meetings on the subjects of agriculture and food.

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