

The right to food

An overview

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The right to food is not new in international law. It has been there since the Universal Declaration of human rights in 1948 but strangely enough the first international meeting at which it was explicitly invoked by governments was a world food Summit held in 1996 and for many years before then it was in the text but basically forgotten about and not seen as a useful tool against hunger and malnutrition. So why did the right to food emerge at that time with the rule Summit of 1996? Well for two reasons.

First, because at the time governments understood that the technological advances made in order to improve agricultural productivity, that were very significant in the 1960s and 1970s, had not actually reduced the number of hungry people. There still were some 900 million people hungry despite the fact that food availability per person had been increasing significantly over the past or previous 40 years thanks to the green revolutions in Latin America and in South Asia. And the second reason was that in the early 1990s one economist, Amartya Sen, had published some books and articles describing hunger as a result not of their being too little food available but as the result of social injustice, as a result of governments not being held accountable to their populations. As a result in other terms of failing institutions and poor governance. And the understanding of governments in 1996 was something else was needed to fight hunger and malnutrition and that something else was a tool that would allow people to hold their governments accountable for remaining passive in the light of growing hunger and malnutrition. And so the world summits demanded at the time that the right to food should be clarified, that it be given teeth, and it is on that basis so some 20 years ago that the right to food began gaining visibility in international law.

Part 1. What is the right to food?

The International covenant on economic social and cultural rights, which is a major human rights treaty adopted in 19, 1966 that includes a right to food, that body of experts, called the Committee on Economic, Social and Cultural Rights adopted a general comments, General comment number 12, that explained what the right to food was about. This general comment was published in 1999 and the committee on economic, social and cultural rights described what governments should do to discharge their obligations under the right to food. To do this they used the work of the Norwegian jurist Asbjorn Eide, who had said very simply, that all human rights, particularly the right to food, need to be understood as implying three obligations for governments.

One is a duty to respect the right to food. In other terms not to interfere with the enjoyment of the right to food for those who are able to feed themselves or have access to food some way or another.

A second duty is a duty to protect the right to food. In other terms governments should control private actors, transnational corporations for example, and food traders who hoard food and speculate on food prices. Control these private actors to avoid their actions leading to violation of the right to food.

And a third duty of governments is to fulfil the right to food. To put in place policies that implement gradually the right to food and allow more people to have access to adequate diets. So the Committee on Economic, Social and Cultural Rights published to the general comment clarifying the content of the right to food.

And a few years later a second world food summit was convened, in 2002 and this world food summit launched a negotiation on what, in 2004, was finally adopted as a set of guidelines, recommendations that define for governments which actions you should take in order to implement the right to food. This is a very detailed text called the voluntary guidelines in support of the progressive realisation of the right to adequate food in the context of national food security. A very long text that was negotiated by governments word by word and that in some 20 pages describes a set of actions that governments must, must take in order to implement the right to food. That text was adopted within the committee on world food security, which is an intergovernmental committee of the FAO.

And finally in 2000 the mandate of special rapporteur on the right to food was established. The idea was to have some independent expert appointed by the international committee by the Commission on Human Rights at the time to inform governments about developments concerning the right food, to monitor compliance with the right to food and to basically help shape our understanding of what the food required.

So in the late 1990s, early years of the past decade, the right to food began to begin, become more consistent by these different avenues the significance of right to food was increasingly well understood, and increasingly NGOs could use a right to food in their claims against governments to oblige governments to do the right thing and abstain from doing the wrong things.

The early years of the past decade beginning around 2000 were also years during which the right to food came to be increasingly invoked at domestic level by the NGOs and other groups trying to basically oblige governments to move towards a full realization of the right to food. And one, perhaps, most spectacular example of the right to food being used before courts was in India.

In India where some activists were shocked to see that in the state of Rajasthan the local government had huge food reserves available and was not using these food reserves to come and the rescue of the hungry, despite the prices being quite high and many people dying of hunger because they were not able to afford the food at market prices. And governments were doing nothing. They were just sitting on his food reserves without using them as was normally required, under the famine codes adopted during the colonial period. And so NGOs called upon and a lawyer from the human rights law network, Colin Gonsalves, to petition the Indian Supreme Court to demand that the government of Rajasthan release these reserves and thereby provides access to, to

affordable food to the populations there. And that was the beginning of the so-called right to food case in India, which is an on-going case.

Today in 2014, it is still on-going 13 years after it was launched. And it is for me the most an important public interest case ever and to have developed in, in human rights law. Since 2001, when the first ordinance was adopted by the Indian Supreme Court, the Supreme Court took some 100 ordinances directed towards all the 28 states of the Indian federation and basically it obliged the governments to strengthen the social programmes that are meant to protect people from hunger. It obliged governments to universalise certain programs that were reserved to some groups of the population.

It ordered for example all states to have in place school meal programs that would provide adequate food to schoolchildren across all the union of India. And it has been altogether the most important case to mobilise people behind the right to food, and to oblige governments to and protect the right to food across the whole subcontinent. It's been a very an impressive case serve supported by campaign of NGOs that is called the right to food campaign in India that brings together a wide range of NGOs across this country and in 2013 to build on the success of this litigation India adopted a national food security act that basically guarantees under this new legislation a series of rights that were initially stipulated in this court case. So it's been a very successful example of how the right to food can be invoked before courts to oblige governments to deliver on the promises and to implement the social programs that are meant to protect people. It is one example.

It is not the only example we have the right to food in use before courts. For example in 2008 in Nepal the Supreme Court had to order the government to deliver food aid to some districts of the country that had not been benefiting from food aid programs that have been benefiting other parts of the country for some reason which are not very, very clear. Some parts of the country had not been benefiting from the food aid programme that was in principle to be nationwide. And the Supreme Court obliged government to extend its program to these forgotten populations. Now, of course, courts have a role to play in implementing right food and these are examples of which role they may play but other institutions also may be extremely important. In many countries of Latin America for example the Ombudsman, the "Procurador de los Derechos Humanos" who is a sort of further independent authority monitoring the action of administration has been using the right to food in order to oblige governments for example to protect peasants from being evicted from their lands or to protect er access to to food er for, for children who were deprived from access to school, er school meal programs.

So there's been in the past decade beginning around 2000, a series of developments all over the world in which the right to food has played a more important to monitor governments and to oblige them to improve the protection of the right to food for the benefit of their population.

Part 2. Framework laws

The Committee on Economic, Social and Cultural Rights recommended that states adopt framework laws on the right to food. Framework laws are essentially laws that set up bodies in which NGOs, civil society, producers organisations can interact with government delegates to agree on a strategy to commend the right to food by identifying

which action should be taken, within which timeframe, by which authorities, to move towards the full realisation of the right to food. And a number of laws have been adopted for example in Guatemala in 2005, in Brazil in 2006, in many countries in Latin America. In fact, such laws were adopted in short succession during that period that create consultative bodies, fora, in which this dialogue may take place between the victims of hunger or their representatives on one hand, and government of delegates on the other hand. These actors agree on a diagnosis about what is going wrong in the country. They agree on a set of priorities and agree on a timeline within which action should be taken to eradicate hunger and malnutrition.

And under these framework laws we have national action plans adopted, often multi-year action plans that define for the next five or six years which actions should be taken, which is very important because it means that governments will be held accountable if they do not deliver on these plans if they don't, assign budgets for the financing of these actions that are planned or if for some reason they and implement these promises are without regard to the principles of a non-discrimination or participation and so on.

So the fact that governments are to negotiate with the society what needs to be done against hunger and malnutrition, the fact that they would be regularly held accountable for delivering on these promises means that although all the right to food is subject to progressive realization, cannot be implemented all at once, there is nevertheless a built-in accountability in in the system. And it is quite remarkable that under the leadership particularly of Brazil and Guatemala in the years 2005, 2006 and the following 10 years a range of laws were adopted in Latin America, increasingly now in Africa similar legislation has been adopted, to basically provide this legislative framework obliging the government to implement, gradually, the right to food.

This is extremely important because really the reason why people are hungry, malnourished is not because there is not enough to eat. It's because governments are not paying attention to the situation of the poorest segments of the population. It is because small farmers have no access to decision making and cannot have your voice heard in political fora. It is because government is not obliged to respect its promises and to pay attention to the needs of the poorest. So these accountability mechanisms, this duty for governments to explain the actions they are taking, this duty for governments to enter into discussion with civil society to identify why people are still hungry and what needs to be done about them, is absolutely key for the fight against hunger and malnutrition.

One example of how successful a National Right to food strategy can be is provided by Brazil. When Lula da Silva campaigned to become president of Brazil, which he became 1 January 2003, he promised to adopt a hunger zero strategy and this was a countrywide policy that he intended to develop, bringing together, under that umbrella, a series of social programs including a very impressive school feeding programme that reaches today some 49 million children. A programme called Bolsa Familia that provides cash transfers to poor families giving money to the, to the women for poor and low income families. And these programs were, discussed with civil society, implemented across Brazil and were extremely, useful and effective in reducing child malnutrition in the country.

I travelled to Brazil myself in 2009, some six years after this *forma zero*, this *hunger zero* strategy was launched and I found that child malnutrition had been declining by some 83% thanks to these initiatives that were taking place. Now this is not the result of having invested more in, in tractors or in fertilisers, it was a result of social programmes that were strengthened, that were made universal, that were better monitored to make sure that the money actually reaches the beneficiaries, and that was probably and is still to this day the most, significant example of how a national food strategy, can deliver on reducing hunger and malnutrition.

Part 3. Transitions towards sustainable food systems

One major advantage of a multi-year strategy, national action plans that for the next five or six years identify which action should be taken by governments to eradicate hunger and malnutrition, is that it allows long-term objectives to be kept in site rather than all actions being dictated by the short-term imperative of feeding populations.

And indeed we are in a situation that is not sustainable and we need to make at least four major transitions to move towards sustainable food systems.

First, during the 1980s and 1990s there was a widespread belief that to help poor countries, who were food deficit countries unable to feed themselves, we needed to promote trade, promote aid, and basically the most competitive and productive regions were meant to feed the other regions and the food would be transported from the most productive competitive regions to those food deficit regions. We now understand much better. Since just a few years that we will not help poor countries by feeding them will help them sustainably by helping them feed themselves, which means re-investing in those countries agriculture even though the farmers may not be the most competitive, the most productive. Even though they are often working on very small farms that are not able to compete on global markets, we nevertheless must invest in these farmers, in these agriculture systems, in order to help these countries reduce their dependency on imports and food aid and, in order to reduce rural poverty by improving or increasing incomes of small farmers in these countries. That a first transition.

A second transition we need to make is a transition towards sustainable ways of producing food. We know that the industrial food production system and relying on external inputs, using machinery, relying on monocultures has had massive impacts on the ecosystems. It has increased greenhouse gas emissions, thus in part causing climate change. It has polluted the soils and waters. It has reduced significantly biodiversity. It has not maintained the health of the soils in fact encouraging erosion as a result of monocultures exposing the soils to being destroyed by, by the wind and the water. The organic matter of the soil being wiped out as a result of monocultures spreading. So the industrial choices made in the past for industrial food systems to be developed under the green revolutions of the 1960s and 1970s have basically not taken into account the environmental impact of those ways of producing food, which now are widely recognised as being unsustainable.

There are other ways of doing this I have promoted in my work agro-ecology as a means to better protect the ecosystems whilst producing at a lower cost in ways that are less dependent on fossil energies and I still believe this is a most important transition to be achieved.

A third transition to be, to be made is to integrate the dimension of nutrition or health in the way agricultural policies are designed. In the 60s and 70s, the main concern was really to increase production in order to satisfy the growing demand from rising populations that were also migrating to cities and were developing lifestyles and eating habits that were increasing the pressure on resources and the natural result of those policies was to increase volumes available, without much regard for the quality of diets, without much regard for whether the diet would be balanced enough, and would provide the full range of micronutrients that people need to lead active and healthy lives. So yes we've boosted the production of maize, of soy bean, of wheat, of rice but we've forgotten to link agricultural policies with health outcomes and to provide not just enough to eat but diverse diets that are sufficiently balanced and appropriate for people to be to be healthy. So this is the third transition we must make, from boosting production, increasing volumes to taking into account the health concerns in the way our agricultural policies are designed.

And there's a fourth transition finally we must make, which is from supporting the poor's access to food by dumping cheap calories on the markets that will be affordable even for poor households to protecting the poor by social protection programs. In the past the priority was really to produce cheap calories in order to make sure that even poor families would be able to buy enough food not to starve. The problem was that this approach, this low-cost food economy approach if you wish, was detrimental to the least competitive producers unable to adapt to this regime in which they were forced to produce at a very low cost or leave their farming business. And that this, was not a long-term solution. The long-term solution is for poor families to be supported by social protection programs that should be robust enough so that even low-income households should be able to buy food, that is adequate, that is healthy and of course that is sufficient. This is a fourth shift that must be made. It is important not only in rich countries but also in poor countries to strengthen and make universal social protection programmes but it is something that maybe lost of sight if we only focus on what is the most urgent need which is to feed populations that are on the verge of starvation.

So long-term full strategies, five-year action plans to reduce hunger and malnutrition are extremely important because they can also allow us to move from the situation as it is at present to the long-term objectives that we seek which is sustainable food systems having made the four transitions that I have outlined.

Part 4. Overcoming lock-ins

We need a transition, we need a reform of food systems but it will not easy to achieve. And the reason why it will not be easy to achieve is because there are in the current systems a series of lock-ins, or obstacles to change, which can be an easily identified.

First there are technological lock-ins. I mean by this that the infrastructure, the technologies, the machineries have been designed by and for the larger actors of the food systems, the dominant agribusiness corporations in particular, and it is they who dominate basically these infrastructures, and it is for their needs and to produce large volumes of uniform things that these technologies have been developed. Farmers being actually reduced in that, in that respect to producers of inputs that are convenient inputs for the food processing industry.

A second locking obstacle is economic. These very large actors are highly competitive and efficient. They achieve economies of scale. They control the system by various network and logistical effects. They dominate the system and are much more competitive than the small farmers who have difficulties emerging and competing against those major actors.

A third obstacle is cultural. We have developed ways of eating very rushed lifestyles with less time to buy food and to cook it. , we have developed a taste for convenience foods that are microwaveable, if you wish, and that are very well adapted to the type of lifestyle that we have in our, in our societies. That is a cultural obstacle, which will be extremely difficult to change. Our ways of eating, our habits as consumers, will have to change if we want to move to more sustainable options.

Fourthly, there is a political obstacle, which is that the large actors that today dominate the system also to large extent control decision-making in the system. They in fact veto any significant change in the system and will oppose any transformation that would jeopardise their dominant position. So these are significant obstacles and the only way we can overcome them or circumvent them is by more food democracy.

Democracy is not simply a voting every for five years for a member of Parliament, it also means and every day choosing for the food system that corresponds to, to what people want. And they want something else than cheap calories and diverse foods all year around, they want food systems that are sustainable, in the sense that they respect social justice, in the sense that they respect the ecosystems, in the sense also that they are good for health and that and they provide nutritious options to the populations depending on them.

Part 5. Change from the bottom up

The food systems that people want they're now creating them from the bottom up. In many places we see municipalities teaming with citizens, teaming with school boards, teaming with local producers, to rebuild local food systems, often based on the development of food policy councils that are councils in which many different actors meet to reimagine the food systems on which they depend. This trend began in the United States in the early 1980s. It has spread across North America, particularly in Canada, and it is now developing also indeed in the EU. It is extremely important because it means that food systems are now going to be owned by the people who depend on them. And we see on a global scale very much the same democratisation happening.

The Via Campesina, which is a transnational movement of small farmers that has some 200+ million members across almost 100 countries is now increasingly demanding to have a voice in how food systems are being shaped, in how agricultural and food policies are being designed and that too is a sign that food systems are increasingly being democratised not decided behind closed doors, by some lobbies influencing governments but really the result of a broad public deliberation as to which kind of food system we need. The right to food is there to support these movements. It is there because it encourages participation, accountability. It encourages the setting up of institutions that can allow this dialogue to take place between producers, consumers,

public authorities in order to rebuild systems that can again deliver not just cheap calories but also on social justice, on environmental sustainability, and of course on adequate health outcomes.

My work over the past six years as United Nations special rapporteur on the right to food was to a large extent consisting in bringing to governments recommendations that came from what I heard from civil society, NGOs, farmers organisations, from the scientific community also. Many scientists who work on issues related to food systems and who understand or see that governments are not really making decisions based on the best science available but rather decisions based on ideology or short-term electoral gains. And I believe it is absolutely vital that decisions that concern food and agriculture are made based on the needs of the poor, as represented by NGOs, civil society and based on the best science available on what the scientific community comes up in terms with in terms of conclusions.