Realizing the Right to Food: Progress, Limitations and Emerging Alternative Policy and Legal Models

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Realizing the Right to Food: Progress, Limitations and Emerging Alternative Policy and Legal Models

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Cavalluzzo Shilton McIntyre Cornish LLP
Realizing the Right to Food: Sources and Interpretive Aids

1. Universal Declaration of Human Rights 1948 (article 25)
3. General Comment # 12: The Right to Adequate Food 1999 (Committee on Economic Social and Cultural Rights)

And a variety of other sources including: the Convention on the Rights of the Child (Article 6), the Convention on the Elimination of All Forms of Discrimination against Women (Articles 12 and 14) the Convention on the Rights of Persons with Disability (Article 28), the European Social Charter (Articles 4, 12 and 13), the African Charter on Human and People’s Rights (Articles 16, 22 and 24), the African Charter on the Rights and Welfare of the Child (Article 14); the American Convention on Human Rights (Article 26) and the S. Salvador Additional Protocol (Article 12)
Right to Food: State Obligations

**Fulfill:** states must ensure that all people have access to adequate food, and where they do not have access the state must *facilitate* access or *provide* access.

**Protect:** states must ensure that third parties do not engage in activities that interfere with the ability of people to meet their food needs.

**Respect:** states must not engage in activities that interfere with the ability of people to meet their food needs.

**Process Requirements:** in implementing the right to food, states must adopt the human rights approach and its process requirements.

**Facilitate:** states 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.”

**Provide:** “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, States have the obligation to *fulfill (provide)* that right directly.”

**Participation  Accountability  Non-discrimination  Transparency  Human dignity  Empowerment  Rule of law**
National Implementation of the Right to Food: Constitutional Protection
(not comprehensive)
National Implementation of the Right to Food: Legislative Protection
(not comprehensive)
National Implementation of the Right to Food

- **Constitutional Protection** *(South Africa, Kenya, Brazil)*
- **Framework Law** *(India, Ecuador, Venezuela, and Zanzibar)*
- **National Policy** *(India, Uganda, Brazil)*
- **Sectoral Laws**
- **Judicial Recognition** *(India, Guatemala, the Court of Justice of the Economic Community of West African States)*
- **Food Security and/or Nutrition Coordination Institution** *(Bolivia, Brazil, Guatemala, Malawi, Mozambique, Nicaragua and Peru)*
Residents of the villages of Terian, Babagon Laut, Timpayasa, Tiku, Buayan, Pongobonon, and Longkogungan (Sabah, Malaysia) affected by a proposed dam project in the Ulu Papar region
Emerging Alternative Legal and Policy Frameworks

- **Food Sovereignty Implementation**: constitutional recognition (Nepal, Ecuador, Bolivia, Venezuela); legislative frameworks (Mali, Senegal, Nicaragua)

- **Alternative Food Networks/Food Policy Councils**: re-embed food and agriculture; CSAs; farmers’ markets; municipal food policy councils

- **Elaboration of New Rights and Obligations**: Right to Food Sovereignty; Declaration on the Rights of Peasants and Other People Working in Rural Areas (rights to land, productive resources, biodiversity, remunerative price setting etc); Transnational corporation human rights obligations

- **New Participation Models**: UN Committee on World Food Security
Challenges to the Right to Food Framework

- **Practical Challenges**: upholding an economic and social right; history of support for the right to food (ground up? top down?); challenges to implementation; focus on fulfil (provide) at expense of fulfil (facilitate), respect and protect obligations; access to justice; larger international system; corporate control of markets and policy spaces

- **State Centric Model**: state as violator and guarantor; no obligations or requirements on individuals, communities or corporations

- **Transformative, but how radically so?**: what are the root causes of hunger, and malnutrition? what are the challenges once rights are institutionalized?
Thank you!

And special thanks to Priscilla Claeys!

This presentation is based largely on:

*Creating an Environment for a Fully Realized Right to Food: Progress, Challenges and Emerging Alternative Policy Models* – Priscilla Claeys and Nadia Lambek (December 2014)

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