

# THE RIGHT TO FOOD IN LIGHT OF INTERNATIONAL HUMAN RIGHTS LAW

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Received: 17/02/2024

Accepted: 05/09/2024

Published: 11/11/2024

## **Abstract:**

*The right to adequate food is one of the fundamental human rights essential for ensuring a decent standard of living and health. This right constitutes an international legal obligation incumbent upon states to undertake necessary measures to eradicate hunger. This right has been enshrined in international conventions, with the United Nations actively working to guarantee and implement it in practice. Moreover, comprehensive safeguards have been established to promote this right across the globe, and international policies have been adopted to address global food issues, eradicate hunger and malnutrition, and protect and enhance the human environment.*

**Key words:** Food, Human, International Law, Right.

## **INTRODUCTION:**

International human rights law has placed significant emphasis on fundamental rights and freedoms, establishing international safeguards to ensure their entrenchment, promotion, and protection. It has developed international mechanisms to uphold and guarantee the enjoyment of these rights, including instruments such as the Universal Declaration of Human Rights, the United Nations Charter, the 1966 International Covenants, and a host of other specialized agreements aimed at protecting specific groups.

The right to food is a recognized human right that has been acknowledged for a long time. It stands as one of the core human rights enshrined in numerous international conventions and instruments. States and international organizations have worked to institutionalize and provide guarantees to implement this right effectively. State parties acknowledge every individual's right to an adequate standard of living for themselves and their families, which includes sufficient food, clothing, shelter, and the right to continuous improvement of living conditions.

The Committee on Economic, Social, and Cultural Rights has affirmed that the right to adequate food is inherently linked to human dignity and is indispensable for the enjoyment of other human rights enshrined in the International Bill of Human Rights. This right is inseparable from social justice and necessitates the adoption of appropriate economic, environmental, and social policies at both the national and international levels aimed at eradicating poverty and ensuring the full realization of human rights for all people.

The international community continues to reiterate the importance of fully respecting this right as a fundamental component of economic, social, and cultural rights, urging states to take all necessary legal measures, both internationally and nationally, to enforce it. This is particularly pressing given the significant challenges posed by various factors, such as climate change, which has disrupted the ecological balance of the environment.

This study aims to underscore the significance of the right to food as a key element in eliminating hunger and achieving a form of food justice, which can only be realized through concerted efforts.

**Research Question :** What are the guarantees necessary for the implementation of the right to food and the achievement of global food security?

## 1. The Conceptual Framework of the Right to Food

The food crisis has become a pressing issue that troubles nations worldwide. Although the right to food is recognized as a fundamental human right, the irrational exploitation of resources and the failure of states to adopt successful policies to ensure food security have had negative repercussions, leading to an inability to eliminate hunger.

### 1.1. The Concept of the Right to Food

Various international and regional instruments, as well as reports by international organizations, have underscored the right to food, highlighting its critical importance and its interconnectedness with other human rights due to its essential role in sustaining life. This subsection will explore the definition of the right to food and emphasize its relationship with other related rights.

#### 1.1.1. Definition of the Right to Food

The draft of an International Code of Conduct regarding the right to adequate food states that: "The right to adequate food means that every person, whether man, woman, or child, individually or in association with others, must have access to the physical or economic means to obtain adequate food at all times or use an appropriate resource base to purchase it in a manner consistent with human dignity. The right to adequate food is an integral part of the right to an adequate standard of living."<sup>1</sup> The Committee on Economic, Social, and Cultural Rights, in its 20th session in 1999, defined it as follows: "The right to adequate food is realized when every man, woman, or child, alone or in association with others, has physical and economic access at all times to adequate food or means for its procurement."<sup>2</sup>

The Special Rapporteur on the Right to Food also defined it as follows: "The right to have regular, permanent, and unrestricted access, either directly or through monetary purchases, to adequate and sufficient food, both in quantity and quality, that aligns with the cultural traditions of the people to whom the consumer belongs, ensuring a satisfactory and dignified physical and mental life, both individually and collectively, free from anxiety."<sup>3</sup> The Food and Agriculture Organization of the United Nations defined it as follows: "The right to nutrition with dignity, which also means the right to permanent access to the essential resources for the production, sale, and purchase of food in sufficient quantities, not only to be free from hunger but also to ensure health and psychological well-being."<sup>4</sup>

It can be noted that, regardless of the various interpretations of the right to food, there is a consensus that it is a human right that must be protected because it is intrinsically linked to human life, dignity, and health. No one should, under any circumstances, be deprived of this right, as it is inherent to human dignity and is guaranteed and protected by conventions, reports, and declarations adopted and ratified by states. Therefore, it must be implemented in practice.

#### 1.1.2. The Connection Between the Right to Food and Other Rights

The right to food is a fundamental, essential, and vital element that is closely linked to other rights, such as the right to health, education, and work. It plays a crucial role in preserving the

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<sup>1</sup> Rolf Kunnemann, *The Right to Adequate Food*, Circle of Rights, Unit No. 12, accessed on 15/10/2024, available at : PDF hrlibrary.umn.edu>arab

<sup>2</sup> General Comment No. 12 of 1999 from the 20th session of the Committee on Economic, Social, and Cultural Rights, established by Economic and Social Council Resolution No. 17/1985, issued on 28 May 1985.

<sup>3</sup> Khadija Ben Qattat, Boufenish Othman, *The Right to Food within the Framework of International Human Rights Law*, Al-Ustadh Researcher Journal for Legal and Political Studies, Vol. 3, No. 4, 2021, p. 241.

<sup>4</sup> Fawziya Fetisi, *International Recognition of the Right to Food as a Guarantee for Freedom from Hunger*, Researcher Journal for Academic Studies, Vol. 8, No. 3, 2021, p. 672.

right to life and contributes to the physical and psychological development of individuals. Ensuring access to food supports a dignified life and serves as a key indicator for measuring the progress or underdevelopment of nations.

### First : The Right to Life

International instruments have enshrined a set of fundamental rights and freedoms that every human being should enjoy by virtue of their humanity, among which is the right to life. The United Nations Charter of 1945, the Universal Declaration of Human Rights of 1948, and all subsequent international instruments have emphasized the importance of this right and the necessity to preserve, enshrine and protect it.

The right to life is one of the most important rights and is considered a natural right that must be guaranteed to every individual.<sup>5</sup> Laws must be established to effectively protect this right, and penalties should be imposed on those who violate it in any form.<sup>6</sup> The right to life extends beyond mere existence, encompassing the quality and standard of life,<sup>7</sup> as it is an inseparable right inherent to every human being.<sup>8</sup>

### Second : The Right to Health

Article 12 of the International Covenant on Economic, Social, and Cultural Rights of 1966 explicitly outlines the commitment made in the Universal Declaration of Human Rights regarding the right to health as an integral part of the right to an adequate standard of living. This Covenant was adopted simultaneously with the International Covenant on Civil and Political Rights.

Article 12 of this International Covenant serves as a solid foundation for the right to health, stipulating: "The States Parties to this Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."<sup>9</sup> The measures that States Parties are required to take to ensure the full realization of this right include securing sound physical and mental health.<sup>10</sup> No one should be arbitrarily deprived of their life, as this right is inherent to human beings and falls within the broader spectrum of human rights.<sup>11</sup> The right to health is closely connected to the right to food, as this right cannot be fully achieved without the availability of healthy and adequate nutrition.<sup>12</sup>

## 2. The International Enshrinement of the Right to Food

Many international and even regional agreements and instruments have emphasized the right to food; some have explicitly stated it, while others have implicitly enshrined it as an international norm created by human will. This right has evolved in human rights charters and fundamental freedoms, with significant contributions from international and regional organizations dedicated to promoting and facilitating its implementation and combating the phenomenon of hunger, which has become a pressing concern for many countries worldwide.

### 2.1. The Right to Food in International Instruments

<sup>5</sup> Salim Qira'a, *Human Rights in Algeria: Between the Theoretical Legal Aspect and Practical Reality*, Journal of Political and Administrative Research, University of Djelfa, Algeria, Issue 3, 2013, p. 101.

<sup>6</sup> Salah Eddine Boujelal, *Lectures on Human Rights Law*, Faculty of Law and Political Science, University of Sétif 2, Algeria, 2013-2014, p. 16.

<sup>7</sup> Riad Saleh Abu Al-Ata, *Environmental Protection from the Perspective of Public International Law*, Dar Al-Jami'a Al-Jadida, 2009, p. 83.

<sup>8</sup> Mohammed Youssef Alwan, *International Human Rights Law : Protected Groups*, Part Two, Dar Al-Thaqafa, Amman, Jordan, 2007, pp. 148-149.

<sup>9</sup> Article 12 of the *International Covenant on Economic, Social and Cultural Rights* of 1966.

<sup>10</sup> Ahmed Abu Al-Wafa, *International Protection of Human Rights within the Framework of the United Nations and Specialized Agencies*, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, 2000, p. 32.

<sup>11</sup> Article 6 of the *International Covenant on Civil and Political Rights* of 1966.

<sup>12</sup> Fawzia Ftisi, *previously cited article*, p. 670.

The United Nations has established international mechanisms, and human rights instruments have included provisions to guarantee and realize the right to food. These instruments have also laid down safeguards to promote the right to food globally. This section will review these international documents.

### **2.1.1. The 1945 United Nations Charter and the 1948 Universal Declaration of Human Rights**

#### **First : The United Nations Charter**

World peace is closely linked to the formulation of the United Nations Charter on Human Rights, as this issue was initiated through it. The preamble begins by emphasizing that the goals of the peoples of the United Nations reaffirm their belief in the fundamental rights of human beings, the dignity and worth of the individual, and the equality of men and women, both in small and large nations, with the aim of improving the standard of living in an environment of greater freedom.<sup>13</sup>

Article 56 of the Charter outlines the fundamental obligations of member states in the United Nations to achieve the purposes set forth in Article 55.<sup>14</sup> While the Charter does not explicitly mention the right to food, it alludes to it implicitly through the call for cooperation to address economic, social, cultural, and humanitarian issues and to work towards achieving an adequate standard of living.<sup>15</sup>

#### **Second : The Universal Declaration of Human Rights, 1948**

There was an urgent need within the United Nations to take complementary initiatives to the Charter, which materialized in the adoption of the Universal Declaration of Human Rights. The declaration was issued by the General Assembly as Resolution 217 on December 10, 1948. The declaration emphasized the right of every individual to a living standard sufficient to ensure their health and well-being, as well as that of their family, particularly in terms of food, clothing, housing, medical care, and other necessary social services. It also stated the right to protection against risks such as unemployment, illness, disability, widowhood, old age, or other circumstances beyond one's control that deprive them of the means to live. The declaration explicitly affirmed the right to adequate food.

### **2.1.2. International Covenant on Economic, Social, and Cultural Rights**

This agreement was adopted on December 16, 1966, and came into force on January 3, 1976. Article 11 of this covenant affirms the right of every person to food, clothing, shelter, and continuous improvement of living conditions. It states :

1. The States Parties to this Covenant recognize the right of every person to an adequate standard of living for themselves and their family, including adequate food, clothing, and housing, and the continuous improvement of their living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing the essential importance of international cooperation based on free consent.

2. Recognizing the fundamental right of every individual to be free from hunger, the States Parties to this Covenant, individually and through international cooperation, will take the necessary measures, including specific and practical programs, to :

a. Improve methods of production, conservation, and distribution of foodstuffs by fully utilizing technical and scientific knowledge, spreading knowledge of nutrition principles, and creating or reforming land distribution systems in a way that ensures better development and use of natural resources.

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<sup>13</sup> Article 1(3) of the United Nations Charter, 1945.

<sup>14</sup> Hamed Sultan, *Public International Law in Times of Peace*, Dar Al-Nahda Al-Arabiya, 6th ed., 1976, p. 63

<sup>15</sup> Ahmed Abu Al-Wafa, *Op. Cit.*, p. 27.

b. Ensure the fair distribution of global food resources based on need, considering the problems faced by both food-importing and food-exporting countries."<sup>16</sup>

The right to adequate food, like any other human right, imposes three types or levels of obligations on States Parties : the obligation to respect, the obligation to protect, and the obligation to fulfill.<sup>17</sup>

### 2.1.3. Other Charters and Declarations Issued by the United Nations

There are numerous other charters and declarations issued by the United Nations that all enshrine the right to food and call for its implementation and enforcement. Among these documents, we can mention the following:

#### First : The Universal Declaration on the Eradication of Hunger and Malnutrition 1947

This declaration was issued by the conference held on November 16, 1974, and was adopted by the United Nations General Assembly through Resolution No. 3348 (D-29) on December 17, 1974. The declaration aimed to address the global food issue at that time, emphasizing that one of the primary responsibilities of the state is to ensure the availability of foodstuffs, increase production in line with the nutritional needs of individuals, and distribute food equitably among people.<sup>18</sup> It calls for the formulation of food policies that guarantee food abundance, the removal of obstacles to food production, and the provision of incentives for producers. Additionally, the state is obligated to make sufficient efforts to prevent food wastage and work toward establishing an effective global food system.<sup>19</sup>

#### Second : Rome Declaration on World Food Security 1996

This declaration was issued by the World Food Summit held from November 13 to 17, 1996, in Rome regarding global food security. It emphasized that the second commitment of states is to achieve sustainable food security and eradicate poverty at the household level, which is fundamental to the priorities of states in ensuring food security.<sup>20</sup>

#### Third : Convention on the Rights of the Child 1989

By resolution number 25/44 of the United Nations General Assembly on November 20, 1989, this convention was adopted to protect the rights and fundamental freedoms of children. It called for the combating of diseases and malnutrition within the framework of primary healthcare, including the application of available technology and the provision of sufficient nutritious food and clean drinking water. It also considered the environmental hazards and their impact, and thus it emphasizes the need to protect human health from the dangers of malnutrition by ensuring access to healthy food.<sup>21</sup>

## 2.2. The right to food in regional charters

Human rights emerged through regional documents adopted by various regional organizations. Each of these systems constitutes a specific regional legal framework for a particular region or

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<sup>16</sup> Article 11 of the International Covenant on Economic, Social and Cultural Rights.

<sup>17</sup> Ali Mukhtar Fazzani, Ilyas Bouderbala, "UN Mechanisms for Promoting and Realizing Sustainable Food Security," *Sout Al-Qanun Journal*, Volume 8, Issue 2, 2022, p. 1268.

<sup>18</sup> Ahmad Ben Nasser, *The Right to Food in Contemporary International Law*, PhD Thesis, University of Algiers, 2001, 2002, p. 131.

<sup>19</sup> M.M. Alaa Kamel Abdel, *Guarantees of the Right to Food Security Between International and National Legislations*, *Journal of the College of Law and Political Science at the University of Iraq*, 2023, p. 280.

<sup>20</sup> Mohamed Sherif Basyouni, *International Documents on Human Rights*, Volume 1, Dar Al-Shorouk, Cairo, 2003, p. 24.

<sup>21</sup> Article 24(2)(c) of the Convention on the Rights of the Child, 1989.

geographic area, such as Europe, the Americas, Africa, and even Arab countries. Consequently, mechanisms for the protection and promotion of human rights and fundamental freedoms were established.

### 2.2.1. The European Social Charter 1961

The European system for the protection of human rights is considered one of the most advanced regional systems, encompassing a variety of monitoring mechanisms. The European thought on the protection of human rights and fundamental freedoms has made a strong presence in various international forums. The European Convention on Human Rights was signed in Rome on November 4, 1950, and came into force on September 3, 1953. It was later reinforced by additional protocols. The convention included a range of fundamental rights and freedoms, but it did not give significant attention to the right to food. Similarly, the European Social Charter of 1961 outlined a set of economic and social rights but did not explicitly recognize the right to food.<sup>22</sup>

### 2.2.2. The American Declaration of Human Rights and Duties, 1984.

Article 11 states : "Everyone has the right to maintain their health through sanitary and social measures related to food, clothing, housing, and medical care, to the extent permitted by public resources and community resources."<sup>23</sup>

Additionally, the San Salvador Protocol of 1988, in Article 12, states :

1. Everyone has the right to adequate nutrition that ensures the possibility of enjoying the highest level of physical, emotional, and mental development.
2. In order to encourage the practice of enjoying the highest level of physical, emotional, and mental development, and to eradicate malnutrition, States undertake to improve methods of food production, supply, and distribution. For this purpose, they agree to encourage greater international cooperation to support appropriate policies related to this matter. Thus, this protocol explicitly affirms the right to food.<sup>24</sup>

### 2.2.3. African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights, adopted at the 18th Summit of the Organization of African Unity in 1981, includes a range of fundamental rights and freedoms and established a mechanism for the protection of African human rights. It also led to the creation of the African Court. The Charter explicitly addresses some rights related to the right to food, such as the right to health, the right to human dignity, and the right to development, thereby implicitly endorsing the right to food.

However, the African Charter on the Rights and Welfare of the Child, adopted in 1990, stipulates that the States Parties to this Charter commit to ensuring the provision of adequate nutrition and safe drinking water. Article 20 of this Charter calls for States to take all necessary measures to provide material assistance concerning nutrition, health, housing, and clothing.<sup>25</sup>

### 2.2.4. The Arab Charter

Article 38 of the Arab Charter, adopted in 2004, states :

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<sup>22</sup> Omar Saadallah, *Introduction to International Human Rights Law*, 4th ed., Directorate of University Publications, Ben Aknoun, Algeria, 2006, p. 210.

<sup>23</sup> American Declaration of the Rights and Duties of Man, 1948. (n.d.). Retrieved October 11, 2024, from <http://hrlibrary.umn.edu/arab/eu-soc-charter.html>

<sup>24</sup> Abd, A. K. (n.d.). Previous article, p. 284.

<sup>25</sup> Article 12 of the African Charter on the Rights and Welfare of the Child (1990)

"Every person has the right to a sufficient standard of living for themselves and their family, ensuring well-being and a dignified life, including food, clothing, shelter, and services. They also have the right to a healthy environment, and the States Parties shall take the necessary measures, according to their resources, to enforce these rights."

As for Article 38, it further stipulates :

"States Parties acknowledge the right of every individual in society to enjoy the highest attainable standard of physical and mental health, including free access to basic health care services and disease treatment facilities without any form of discrimination.  
2- The steps taken by States Parties shall include the following measures:  
(e) Provision of basic food and clean drinking water to every individual..."

It can be observed that the Arab Charter explicitly enshrines the right to food and establishes a set of guarantees to ensure its implementation by the States Parties to the Charter.<sup>26</sup>

### Conclusion

The right to adequate food has received significant attention internationally and even regionally due to its critical importance and its connection to human life and the inherent rights of human dignity. As a result, it has witnessed international legal recognition. Through our study, we conclude a set of findings and recommendations:

#### A-Findings

- The right to food is one of the economic and social rights enshrined in international conventions.
- International human rights agreements, along with all the charters, reports, and declarations issued by international organizations, constitute a source of the obligation to ensure the right to food.
- The right to food is a humanitarian necessity due to its vital connection to human life, as there can be no existence of humans without food.

#### B-Recommendations

- The necessity of creating integrated and sustainable legal systems to implement the right to food and adapt to climate change.
- The need to avoid using food as a weapon in international relations.
- The cessation of food waste and resource depletion, and the rational use of resources to meet human needs, especially in light of climate change.
- Strengthening legal frameworks for the protection of the right to food by aligning national policies with international human rights instruments to ensure access to adequate food.


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