

Human Rights Responses to Global Poverty

The Right to Food: Key Concepts and Principles

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Nutrition and Human Rights

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Outline

1. Global poverty and the right to food - linkages
2. The right to adequate food
3. What is a right/human right? A legal definition
4. Human rights obligations and the right to food
5. Normative and institutional requirements for human rights as measures to address Global Poverty
6. A model of analysis of the right to food
7. Links between governance and the right to adequate food
8. Assignments and discussion: Right to food in Vietnam, and the global context

The right to adequate food, legal references

Legal sources:

- UDHR, article 25
- ICESCR, article 11
- General Comment 12
- Other human rights instruments
- Non-legal documents – the SDGs – a global perspective
- FAO documents on implementation and monitoring

The right to adequate food

Negative and positive duties

From **norm (and law)** through **knowledge** to **action/implementation**

What to avoid/prevent:

Inadequate nutrition and insufficient food intake (hunger): as violation of the right to adequate food

...and **how**: Our tools for ***avoiding harm/violation/human rights risks***:

1. Causal analysis - interdisciplinarity
 - Lack of knowledge, insufficient knowledge
 - Poor production methods
 - Change harmful economic conditions; social relations; bad governance; poverty as effect and indicator
 - Handle and solve social and other conflicts as causes of poverty and hunger
2. Action: Local, national and international policies, legislation, awareness, education, **institutions. FIAN**
3. Human rights monitoring/supervision, legislation

What is a 'right'? A legal definition

A five-elements *model of a right* (any right, incl. human right): HEGoDS

<u>Elements</u>	<u>Core idea of a right</u>	<u>Explanations</u>
1	<u>H</u>	rights- H older
2	<u>Is Entitled to</u>	type of right: <i>claim</i> to, or <i>freedom</i> or <i>authority</i> to, or <i>immunity from</i>
3	<u>G</u>	a Good (advantage, benefit)
4	<u>Against D</u>	a Duty -holder
5	<u>because of S</u>	the <i>legal Sources</i> or the <i>moral foundations</i> of the right

Sociological definitions of rights: rights as mechanisms, relational

What is a human right?

- Contents of human rights
- Declarations/conventions
- Duties/obligations
- Claim-holders/Duty-bearers
- **Sources** of human rights: internationally agreed upon principles; the UN Charter, UDHR, Conventions, General Comments, human rights case law
- International reporting, monitoring and supervision
- Remedy – legal or non-legal, compensation
- Human rights are **ethical principles** and **moral and legal norms**

Human rights ***obligations*** and the right to food

A basic legal (and philosophical) statement: Rights always have correlative / related duties:

If anyone has a rights, “someone” has duties;

In the field of human rights *the state* is the main duty-holder, but others also have duties

From HR treaties - four types of state human rights obligations:

- Obligation to ***respect*** from violations
- Obligation to ***protect*** from violations
- Obligations to ***fulfil*** human rights
 - By ***facilitation***
 - Or by ***provision***
- Obligation to ***promote***
 - Education, dissemination of knowledge about human rights

State obligations

Progressive realization of ESCRC

Article 2.1

“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, **to the maximum of its available resources**, with a view to **achieving progressively the full realization of the rights** recognized in the present Covenant by **all appropriate means**, including particularly the adoption of legislative measures”

Art 2.2:

“.....**without discrimination** of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”

Article 11 The right to food

- 1) 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.....recognizing 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;
 - Taking into account the problems of both food-importing and food-exporting countries.....

What is the essential *core* of rights fulfillment of art. 11?

The Committee on Economic, social and cultural rights

Adequate food implies:

- Adequacy, nutritious
- 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;
- The *accessibility* of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights
- *Affordable* food

(From General Comment 12, 1999 of the CESCR)

Normative and institutional requirements for human rights as measures to address Global Poverty

The state's duties to fulfill human rights
– six normative and institutional requirements

1. Universality - normative scope?

- For all, everywhere, at all times?
- Universal standards? Universalization as aspiration?
- Interrelated, interdependent and indivisible (UNDHR, World Conference for Human Rights in Vienna in 1993)? Problematize

2. Non-discrimination – functional scope?

- In all matters of public policy, incl. law – and equality. Equality of opportunity vs equality of result
- Non-discrimination: gender, nationality, social origin, age political affiliation, etc.

Normative and institutional requirements for human rights as measures to address Global Poverty

3. Governance requirements (political system)

- Open and free discussion (transparency) - in all public affairs (right to access to information etc.)
- To take responsibility for political promises (accountability): political, legal, administrative
- Respect for the rule of law
 - An independent judiciary
- Responsibility - on the part of each individual

4. Policy requirements (development thinking and practice)

- Process and outcome (Obligations of conduct and obligations of result)
- Immediate versus *progressive* realization of human rights

5. International requirements

- Limits to state sovereignty
- Monitoring and supervision

6. Remedies, compensation in cases of violations

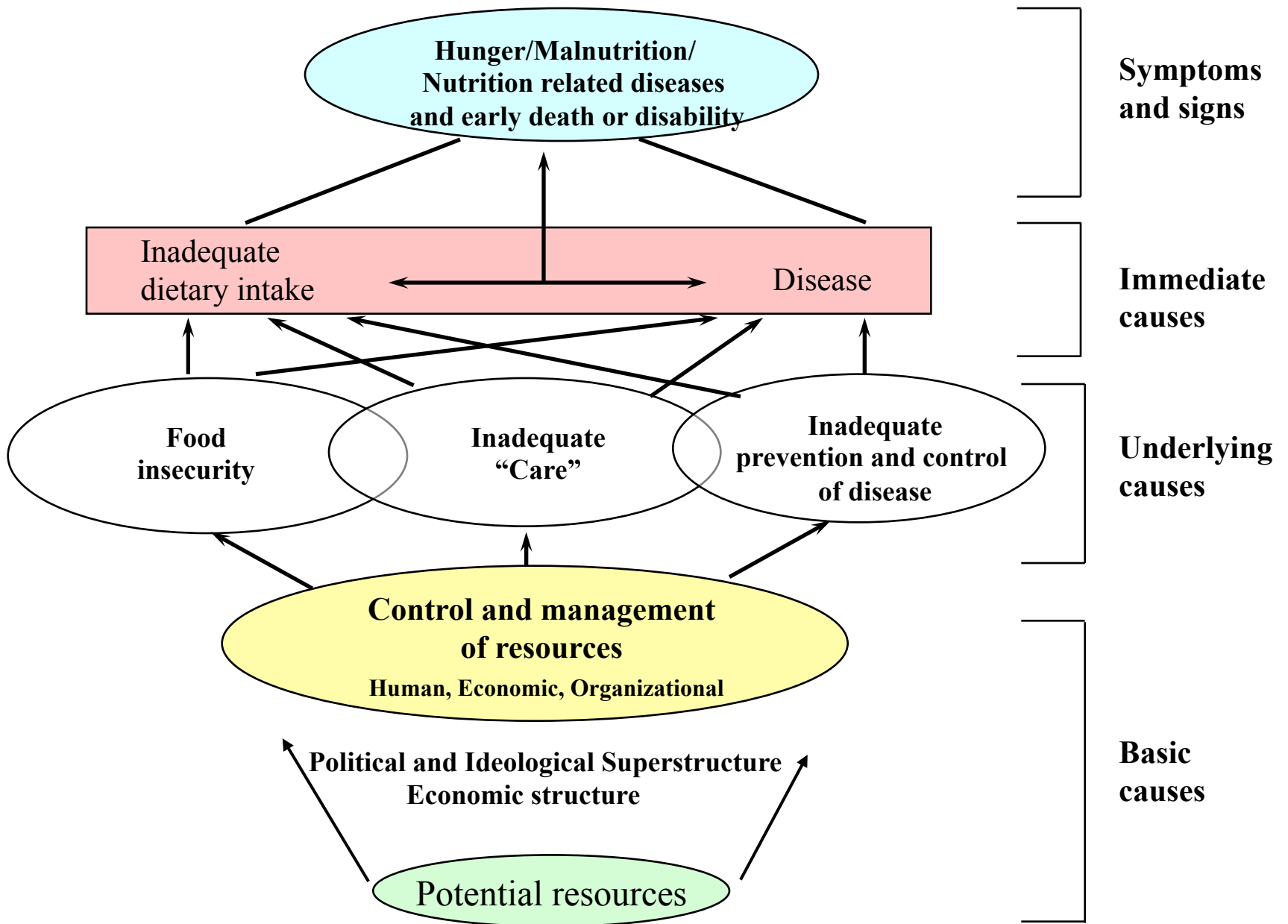
Links between governance and the right to adequate food?

Adequate nutrition based on human rights (right to adequate food, freedom from hunger) requires:

Political institutions that set standards about adequate and nutritious food, and are accountable to these standards

Policies, SDG

Institutions



Conceptual framework for the causes of malnutrition

(Adapted from Jonsson, 1993; and Arne Oshaug)

“From commitments to compliance” – the
implementation gap

“Human rights are universal principles, but, inspiring as those principles may be, none implement themselves. Good governance, effective institutions, adequate material resources and international support are usually what make the difference between noble aspirations and effective realization”

Kofi Annan, 2003

Assignments

The right to adequate food in Vietnam

To what degree is the right to adequate food achieved?

What are main challenges to adequate food in Vietnam; vulnerable groups?

Global poverty and right to food in Vietnam – linkages?